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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2015–2123; Special Conditions No. 25–604–SC]

Special Conditions: TIMCO Aerosystems, Boeing Model 777–300ER Series Airplanes; Dynamic Test Requirements for Single-Occupant, Oblique (Side-Facing) Seats with Airbag Devices

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Boeing Model 777–300ER series airplanes. This airplane, as modified by TIMCO Aerosystems, will have novel or unusual design features associated with oblique-angled, single-occupant seats equipped with airbag systems. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is November 3, 2015. We must receive your comments by December 18, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–2123 using any of the following methods:

Federal eRegulations Portal: Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.

Mail: Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

Hand Delivery or Courier: Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John Shelden, Airframe and Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2785; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for, prior public comment on these special conditions are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected airplane.

In addition, the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On August 20, 2014, through FAA project no. ST14746AT–T, certification plan no. 13T422R006, TIMCO Aerosystems applied for a supplemental type certificate to allow the installation of oblique passenger seats, positioned at 30 degrees to the vertical plane of the airplane longitudinal centerline, and to include inflatable lap belts, in Boeing Model 777–300ER airplanes. The Boeing Model 777–300ER airplane is a wide-body, swept-wing, conventional-tail, twin-engine, turbofan-powered transport airplane, with seating capacity for 550 passengers and 11 crew members.

TIMCO Aerosystems proposes the installation of oblique (side-facing) B/E Aerospace Super Diamond Business Class (B/C) seats. These seats will include airbag devices for occupant restraint and injury protection.

Type Certification Basis

Under the provisions of § 21.101, TIMCO Aerosystems must show that the 777–300ER, as changed, continues to meet the applicable provisions of the regulations listed in type certificate no. T00001SE, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA. The regulations listed in the type certificate are commonly referred to as the ''original type-certification basis.'' The regulations listed in type certificate no. T00001SE are as follows:

The type-certification basis for the Model 777–300ER airplane is 14 CFR part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–98, including special conditions 25–295–SC and 25–187A–SC. In addition, the certification basis includes certain special conditions, exemptions, or later

amended sections of the applicable part that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 777–300ER airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 777–300ER airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing Model 777–300ER airplane will incorporate the following novel or unusual design features:

Installation of B/E Aerospace Super Diamond Business Class (B/C) seats manufactured by B/E Aerospace in ''J'' class, to be installed at an angle of 30 degrees to the airplane centerline. These seats will include airbag devices for occupant restraint and injury protection. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for occupants of seats installed in the proposed configuration.

The seating configuration TIMCO Aerosystems proposes is novel and unusual due to the seat installation at 30 degrees to the airplane centerline, the airbag-system installation, and the seat/occupant interface with the surrounding furniture that introduces occupant alignment and loading concerns.

Ongoing research is progressing to establish acceptable occupant-injury limits. Until those limits become available, the FAA proposes a set of interim limits based on the current literature available, current National Highway Traffic Safety Administration (NHTSA) regulations, and preliminary test data from the research program.

The existing regulations do not provide adequate or appropriate safety standards for occupants of oblique-angled seats with airbag systems. To provide a level of safety that is equivalent to that afforded occupants of forward- and aft-facing seats, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement part 25 and, more specifically, supplement §§ 25.562 and 25.785. The requirements contained in these special conditions consist of both test conditions and injury pass/fail criteria.

Discussion

Amendment 25–15 to part 25, dated October 24, 1967, introduced the subject of side-facing seats, and a requirement that each occupant in a side-facing seat must be protected from head injury by a safety belt and a cushioned rest that will support the arms, shoulders, head, and spine.

Subsequently, Amendment 25–20, dated April 23, 1969, clarified the definition of side-facing seats to require that each occupant of a seat, positioned at more than an 18-degree angle to the vertical plane of the airplane longitudinal centerline, must be protected from head injury by a safety belt and an energy-absorbing rest that will support the arms, shoulders, head, and spine; or by a safety belt and shoulder harness that will prevent the head from contacting any injurious object. The FAA concluded that an 18-degree angle would provide an adequate level of safety based on tests that were performed at that time, and thus adopted that standard.

Part 25 was amended June 16, 1988, by Amendment 25–64, to revise the emergency-landing conditions that must be considered in the design of the airplane. Amendment 25–64 revised the static-load conditions in 14 CFR 25.561, and added the new § 25.562 that requires dynamic testing for all seats approved for occupancy during takeoff and landing. The intent of Amendment 25–64 is to provide an improved level of safety for occupants on transport-category airplanes. Because most seating is forward-facing on transport-category airplanes, the pass/fail criteria developed in Amendment 25–64 focused primarily on these seats. As a result, the FAA issued Policy Memorandums ANM–03–115–30 and PS–ANM–100–2000–00123 to provide the additional guidance necessary to demonstrate the level of safety required by the regulations for side-facing seats, and their mounting plates and adapters.

Special conditions 25–295–SC were issued on August 9, 2005, for the Boeing Model 777, with injury criteria for seats installed at an oblique angle; however, those injury criteria were developed for a seat configuration that provided body support for the occupant, and do not directly address the complex occupant-loading conditions introduced by the oblique seat configuration that is the subject of these new special conditions.

To reflect current research findings, the FAA developed a methodology to address all fully side-facing seats (*i.e.,* seats positioned in the airplane with the occupant facing 90 degrees to the vertical plane of the airplane centerline), and has documented those requirements in a set of new special conditions. The FAA issued Policy Statement PS–ANM–25–03–R1 to define revised injury criteria associated with neck and leg injuries as they relate to fully side-facing seats, *i.e.,* seats installed 90 degrees to the airplane centerline. That policy statement does not address oblique seat installations. Some of those criteria are applicable to oblique seats but others are not, because the motion of an occupant in an oblique seat is different from the motion of an occupant in a fully side-facing seat during emergency-landing conditions.

Most recently, on September, 30, 2015, the FAA issued special conditions 25–594–SC and 25–596–SC, applicable to the Boeing 747–8 and 777–200, for oblique seats. These new special conditions are identical to both of those special conditions. No public comments were received for those special conditions.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 777–300ER airplane. Should TIMCO apply at a later date for a supplemental type certificate to modify any other model included on type certificate no. T00001SE, to incorporate the same novel or unusual design feature, these special conditions would apply to the other model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability, and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances, and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance

contained herein. Therefore, because a delay would significantly affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Boeing Model 777–300ER airplane as modified by TIMCO Aerosystems.

Side-Facing Seats Special Conditions

In addition to the requirements of § 25.562:

1. Head-Injury Criteria

Compliance with § 25.562(c)(5) is required, except that, if the anthropomorphic test device (ATD) has no apparent contact with the seat/structure but has contact with an airbag, a head-injury criterion (HIC) unlimited score in excess of 1000 is acceptable, provided the HIC15 score (calculated in accordance with 49 CFR 571.208) for that contact is less than 700.

2. Body-to-Wall/Furnishing Contact

If a seat is installed aft of structure (*e.g.,* an interior wall or furnishing) that does not provide a homogenous contact surface for the expected range of occupants and yaw angles, then additional analysis and/or test(s) may be required to demonstrate that the injury criteria are met for the area that an occupant could contact. For example, if different yaw angles could result in different airbag performance, then additional analysis or separate test(s) may be necessary to evaluate performance.

3. Neck Injury Criteria

The seating system must protect the occupant from experiencing serious neck injury. The assessment of neck injury must be conducted with the airbag device activated, unless there is reason to also consider that the neck-injury potential would be higher for impacts below the airbag-device deployment threshold.

a. The N_{ij} (calculated in accordance with 49 CFR 571.208) must be below 1.0, where $N_{ij} = F_z/F_{zc} + M_y/M_{yc}$, and N_{ij} critical values are:

i. F_{zc} = 1530 lb for tension
ii. F_{zc} = 1385 lb for compression
iii. M_{yc} = 229 lb-ft in flexion
iv. M_{yc} = 100 lb-ft in extension

b. In addition, peak upper-neck F_z must be below 937 lb of tension and 899 lb of compression.

c. Rotation of the head about its vertical axis, relative to the torso, is limited to 105 degrees in either direction from forward-facing.

d. The neck must not impact any surface that would produce concentrated loading on the neck.

4. Spine and Torso Injury Criteria

a. The shoulders must remain aligned with the hips throughout the impact sequence, or support for the upper torso must be provided to prevent forward or lateral flailing beyond 45 degrees from the vertical during significant spinal loading. Alternatively, the lumbar spine tension (F_z) cannot exceed 1200 lb.

b. Significant concentrated loading on the occupant's spine, in the area between the pelvis and shoulders during impact, including rebound, is not acceptable. During this type of contact, the interval for any rearward (X-direction) acceleration exceeding 20g must be less than 3 milliseconds as measured by the thoracic instrumentation specified in 49 CFR part 572, subpart E, filtered in accordance with SAE International (SAE) J211–1.

c. Occupant must not interact with the armrest or other seat components in any manner significantly different than would be expected for a forward-facing seat installation.

5. Longitudinal test(s), conducted to measure the injury criteria above, must be performed with the FAA Hybrid III ATD, as described in SAE 1999–01–1609. The test(s) must be conducted with an undeformed floor, at the most-critical yaw case(s) for injury, and with all lateral structural supports (armrests/walls) installed.

Note: TIMCO Aerosystems must demonstrate that the installation of seats via plinths or pallets meets all applicable requirements. Compliance with the guidance contained in FAA Policy Memorandum PS–ANM–100–2000–00123, dated February 2, 2000, titled ''Guidance for Demonstrating Compliance with Seat Dynamic Testing for Plinths and Pallets,'' is acceptable to the FAA.

Inflatable Lap Belt Special Conditions

If inflatable lap belts are installed on single-place side-facing seats, the lap belts must meet Special Conditions no. 25–187A–SC.

Issued in Renton, Washington, on October 28, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–27936 Filed 11–2–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2015–3368; Special Conditions No. 25–603–SC]

Special Conditions: Embraer Model EMB–545 and EMB–550 Airplanes; Occupant Protection For Side-Facing Seats Forward of Aft-Facing Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Embraer Model EMB–545 and EMB–550 airplanes. These airplanes will have a novel or unusual design feature associated with a seat configuration of side-facing seats positioned forward of aft-facing seats, and with a structural armrest between the side-facing and aft-facing seats. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is November 3, 2015. We must receive your comments by December 18, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–3368 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/*and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2194, facsimile (425) 227–1232.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for, prior public comment on these special conditions are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected airplane. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On October 14, 2010, Embraer S.A. applied for an amendment to type certificate no. TC00062IB to include the new Embraer Model EMB–545 airplane. These special conditions allow installation of side-facing seats forward of aft-facing seats in Embraer Model EMB–545 and EMB–550 airplanes.

The Embraer Model EMB–545 airplane is a derivative of the Model EMB–550 airplane currently approved under type certificate no. TC00062IB. As compared to the Model EMB–550, the Model EMB–545 fuselage is one meter shorter. The Model EMB–545 airplane is designed for an eight-passenger configuration and a maximum of nine passengers (including lavatory seat).

Type Certification Basis

Under the provisions of 14 CFR 21.101, Embraer must show that the Model EMB–545 and EMB–550 airplanes meet the applicable provisions of the regulations listed in type certificate no. TC00062IB, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA. The regulations listed in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in type certificate no. TC00062IB are as follows:

Title 14, Code of Federal Regulations part 25, effective February 1, 1965, including Amendments 25–1 through 25–129, in their entirety. In addition, the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for Embraer Model EMB–545 and EMB–550 airplanes because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, Embraer Model EMB–545 and EMB–550 airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

Embraer Model EMB–545 and EMB–550 airplanes will incorporate the following novel or unusual design feature: Side-facing seats installed forward of aft-facing seats.

Discussion

This issuance of special conditions for side-facing seats installed forward of aft-facing seats requires dynamic seat testing. Such tests are required of all applicants who plan to install side-facing and oblique seating in passenger airplanes.

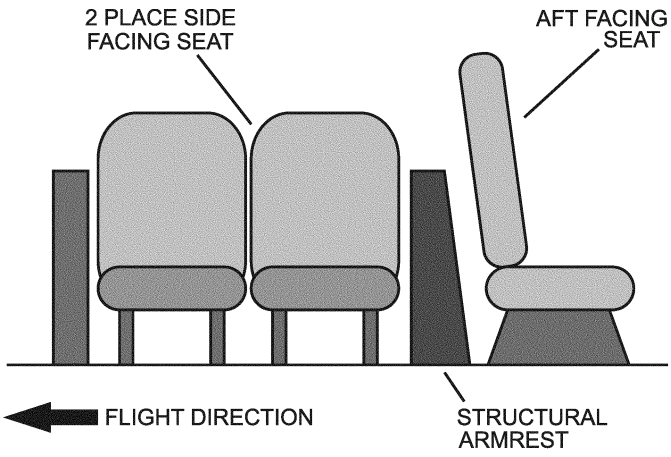

Figure 1: Side-facing seats installed forward of aft-facing seats

The intent of the dynamic seat testing is to evaluate airplane seats, restraints, and related interior systems to demonstrate their structural strength and their ability to protect an occupant from serious injuries in a survivable crash. The current regulations (14 CFR 25.561, 25.562, and 25.785) address occupant-injury protection for forward- and aft-facing seats. The FAA has issued special conditions no. 25–495–SC for Embraer Model EMB–545 and EMB–550 airplanes to address the additional occupant-injury protection concerns raised by for side-facing seats. However, the aft occupant of the side-facing seat (see Figure 1 in these special conditions) may interact with the aft-facing seat, a scenario that the regulations do not specifically address.

The aft-facing seat back could deform during the dynamic-test event, and could contact the occupant in the aft side-facing seat. The point that the seat back contacts the occupant could be in an area of the body that has no defined, acceptable, injury-evaluation method, such as the shoulder. This type of contact is addressed in the above-mentioned side-facing-seat special conditions, which prohibit body-to-body contact.

The applicant proposed installing a structural armrest between the side-facing seat and the aft-facing seat to help prevent contact between the aft-facing seat and the aft occupant of the side-facing seat. The FAA believes that this contact would be likely to occur if the structural armrest failed to perform as intended in an emergency landing. Therefore, the purpose of these special conditions is to define the specific structural requirements of the proposed structural armrest, and the additional requirements necessary to protect the seated occupant from both the side-facing seat and the adjacent aft-facing seat.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

These special conditions are applicable to Embraer Model EMB–545 and EMB–550 airplanes. Should Embraer apply at a later date for a change to the type certificate to include another model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would apply to the other model as well.

Conclusion

This action affects only certain novel or unusual design features on Embraer Model EMB–545 and EMB–550 airplanes. It is not a rule of general applicability, and it affects only those airplanes listed on amended type certificate no. TC00062IB.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer Model EMB–545 and EMB–550 airplanes with side-facing seats installed forward of aft-facing seats.

The applicant must propose a certification strategy for the structural armrest. This strategy must address the structural integrity of the structural armrest, and occupant protection, after a survivable crash. The strategy must define how the applicant will ensure that the installation, when deformed due to the application of static, dynamic, and interaction (with aft-facing seat) loads, and while complying with the applicable 14 CFR 25.561 and 25.562 requirements:

1. The proposed structural armrest will not touch the side-facing seat's aft occupant, and the occupant will not act as an ''human cushion;''

2. The backrest of the aft-facing seat will not touch the side-facing seat's aft occupant;

3. The proposed structural armrest will not impose loads to the side-facing seat structure, and;

4. The seat back of the aft-facing seat will not, as a result of contact with the structural armrest, result in damage or deformation of the seat back that could be injurious to the occupant of the aft-facing seat.

In addition, the applicant must:

1. Test the structural armrest with pitch and roll of the seat track to ensure that the armrest continues to protect the occupant of the side-facing seat.

2. Conduct at least two 16G forward-structural tests with the combination of the side-facing seat, structural armrest, and the aft-facing seat. For these tests, the applicant must account for all structural requirements and post-test conditions.

3. Document any load sharing between the side-facing seat, structural armrest, and the aft-facing seat.

4. Address the worst-case floor deformation that:

a. Produces the maximum load into the structural armrest. This includes the load caused by the floor deformation and the load from the aft-facing seat back.

b. allows the aft-facing seat back the most forward dynamic deformation in the area of the side-facing seat's aft occupant. No contact between the aft-facing seat and the side-facing seat aft occupant is acceptable.

Issued in Renton, Washington, on October 27, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–27937 Filed 11–2–15; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR–5767–F–03]

RIN 2506–AC35

Section 108 Loan Guarantee Program: Payment of Fees To Cover Credit Subsidy Costs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's Section 108 Loan Guarantee Program (Section 108 Program) regulations to permit HUD to collect fees from Section 108 borrowers to offset the credit subsidy costs of Section 108 loan guarantees. The Department of Housing and Urban Development Appropriations Acts of 2014 and 2015 authorize HUD, for each of those fiscal years, to collect fees from borrowers to offset the credit subsidy costs for the guaranteed loans. This final rule amends HUD's Section 108 Program regulations to ensure that HUD can begin to make Section 108 loan guarantee commitments without appropriated credit subsidy budget authority, in accordance with applicable law. This final rule follows publication of the February 5, 2015, proposed rule and adopts the proposed rule with minor, clarifying changes to how HUD will determine and announce the amount of the fee. Elsewhere in today's **Federal Register**, HUD is publishing a document that sets the fee that it will charge borrowers under the Section 108 Program for loan guarantee commitments awarded in Fiscal Year (FY) 2016.

DATES: *Effective Date: December 3, 2015.*

FOR FURTHER INFORMATION CONTACT: Paul Webster, Director, Financial Management Division, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7180, Washington, DC 20410; telephone number 202–708–1871 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service, toll-free, at 800–877–8339. Faxed inquiries (but not comments) may be sent to Mr. Webster at 202–708–1798 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

A. The February 5, 2015, Proposed Rule

On February 5, 2015, HUD published a rule in the **Federal Register**, at 80 FR 6470, proposing to amend the Section 108 regulations at 24 CFR part 570, subpart M, to permit HUD, in accordance with statutory authority, to collect fees from Section 108 borrowers to offset the cost of Section 108 loan guarantees. HUD published its proposal in anticipation of annual appropriations that do not include budget authority for a credit subsidy and require HUD to collect fees from borrowers to cover the credit subsidy costs for guaranteeing the loans.

HUD's February 5, 2015, rule proposed establishing a new section, § 570.712, entitled ''Collection of fees; procedure to determine amount of the fee,'' that would provide for the collection of fees for the Section 108 Loan Guarantee Program. Specifically, § 570.712 would provide that when HUD has been authorized to collect a fee for the Section 108 Program and Congress has not appropriated a subsidy for the Section 108 Program or the appropriated subsidy is insufficient to offset the costs of the Section 108 loan guarantees, HUD will collect a fee for the program. When such conditions occur, HUD stated that it would announce through notice published in the **Federal Register** its intent to impose a fee and explain the basis and amount of the fee imposed. The fee that would be imposed would be expressed as a percentage of the principal amount of the guaranteed loan. Recognizing that the amount of the fee would be dependent upon the authority provided by HUD's annual appropriations to issue loan guarantee commitments and could vary from year to year, HUD proposed announcing the fee through notice published in the **Federal Register** rather than codifying it in § 570.712. HUD stated that the amount of the fee would reduce the credit subsidy cost to the Federal Government to a level that eliminates the need for appropriated credit subsidy budget authority.

In addition to establishing the new § 570.712, the February 5, 2015, rule proposed related amendments to other sections of part 570, subpart M, to implement the authority to charge Section 108 borrowers a fee. Specifically, HUD proposed amending § 570.701 (Definitions) to add a definition of ''credit subsidy cost'' to mean the estimated long-term cost to the Federal Government of a Section 108 loan guarantee or a modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays. HUD based this definition on the definition of ''cost'' in the Federal Credit Reform Act of 1990 [1] (2 U.S.C. 661–661f at § 661a), modified to exclude direct loans, which are not authorized under the Section 108 Program. HUD also proposed amending § 570.705(g) to add, as a loan requirement, that each public entity, or its designated public agency, and each State issuing debt obligations pay any and all fees charged by HUD for the purpose of paying the credit subsidy costs of the loan guarantee.

To facilitate the payment of these charges, HUD's February 5, 2015, rule proposed permitting the payment of these fees from guaranteed loan proceeds. HUD proposed amending § 570.703 (Eligible activities) to provide that guaranteed loan funds may be used for the payment of fees charged by HUD, when the fees are paid from the disbursement of guaranteed loan funds. In addition, to notify the public of plans to use grant funds or loan proceeds to pay the fee, HUD proposed changes to § 570.704 (Application requirements) to require that applicants include the estimated amount of the fee to be paid in the application for loan guarantee assistance. Use of grant funds for fees or payments of principal and interest would also need to be included in each applicant's consolidated plan.

Finally, HUD proposed amending § 570.200(a)(3)(iii) to clarify that when the fee is paid from the proceeds of a guaranteed loan, grant funds used to repay that loan would not be subject to the requirement that not less than 70

[1] The Department of Housing and Urban Development Appropriations Act, 2014, references section 502 of the Congressional Budget Act of 1974. Section 502 was added to the Congressional Budget Act of 1974 by the Federal Credit Reform Act of 1990, Public Law 101–508, title XIII, subtitle B, section 13201(a), 104 Stat. 1388–610.

percent of a grantee's aggregate Community Development Block Grant (CDBG) expenditures over a specified 1-, 2-, or 3-year period be used for activities benefitting low- and moderate-income persons.[2] This exclusion was proposed to make clear that payment of fees would be treated as part of the cost of carrying out the activity financed with the guaranteed loan. HUD stated that Section 108 activities that benefit low- and moderate-income persons are already included in the calculation and that the activities should only be considered once when calculating overall benefit.

B. Proposed FY 2015 Fee

In addition to the February 5, 2015, proposed rule, HUD published a notice on February 5, 2015, at 80 FR 6469, proposing the amount of the fee that HUD would collect in FY 2015 to offset the credit subsidy costs to the Federal Government for making a loan guarantee. Specifically, HUD proposed a fee of 2.42 percent of the principal amount of the loan, proposed to make that fee effective in FY 2015 after available credit subsidy appropriations were depleted, and solicited public comment on the amount of the fee. HUD's February 5, 2015, notice was consistent with § 570.712(b)(2) of the proposed rule, which provided that HUD would publish a notice to establish the fee to pay the credit subsidy costs. HUD stated that it anticipated issuing fee notices before the beginning of the applicable fiscal year, with an effective date of the beginning of the fiscal year, and may provide updated notices as necessary. Furthermore, HUD stated that it would periodically publish the estimated subsidy cost and fee as part of the President's Budget.

C. The Department of Housing and Urban Development Appropriations Act, 2015

HUD stated in its February 5, 2015, proposed rule that the Department of Housing and Urban Development Appropriations Act, 2014,[3] authorizes HUD to collect fees from borrowers to offset the credit subsidy cost for the program. On December 16, 2014, the Department of Housing and Urban Development Appropriations Act, 2015 [4] (2015 HUD Appropriations Act) was enacted. The 2015 HUD Appropriations Act does not include budget authority for a credit subsidy and requires HUD to collect fees from borrowers to result in a credit subsidy cost of zero for guaranteeing loans.

Both the Senate Report (S. Rep. No. 113–182) accompanying the Senate's FY 2015 Transportation, Housing and Urban Development and Related Agencies Appropriation bill and the House Report (H.R. Rep. No. 113–464) accompanying the House's FY 2015 Transportation, Housing and Urban Development and Related Agencies Appropriation bill support the conversion of the Section 108 Program to a fee-based program. The Senate Report states that the Senate Committee on Appropriations expects HUD to move quickly to complete the rulemaking process and clearly communicate program costs and requirements to communities. The Committee concludes that it expects HUD to ensure that a financing structure is in place by the beginning of the fiscal year to ensure that this important program remains available to communities.

This final rule is consistent with the expectations expressed in the Senate Report. As discussed in this preamble, to assist with the conversion to a fee-based financing mechanism, the Section 108 Program allows Section 108 borrowers to include the fee in the guaranteed loan amount. Borrowers would also have the option to use existing statutory authority that permits the fee to be paid with CDBG funds.

II. This Final Rule

The public comment period for the February 5, 2015, proposed rule and notice closed on March 9, 2015. HUD received 10 comments on the rule and 8 comments on the notice by the close of the public comment period. Commenters included State governments, cities, trade associations, and housing development organizations, and addressed issues including the need for the fee, the amount of the fee, and the basis for the fee. The following section of this preamble summarizes the significant issues raised by the commenters on the February 5, 2015, proposed rule and notice and HUD's responses to these comments. Because similar comments were received on the rule and the notice, HUD is addressing all public comments in this final rule.

After considering the public comments received, HUD has decided to adopt the February 5, 2015, proposed rule with minor, clarifying changes. HUD is clarifying § 570.712(a) to provide that program income may be used to pay the fee. HUD is also clarifying § 570.712(b)(1) to provide that the amount of the fee shall be based on the date of the loan guarantee commitment. Finally, HUD is clarifying § 570.712(b)(2) to more accurately describe how it will announce its intent to impose the fee. Specifically, HUD is clarifying § 570.712(b)(2) to provide, as discussed in the preamble of the February 5, 2015, proposed rule, that it would announce the fee through notice published in the **Federal Register** and would solicit comment on future fee notices if the assumptions underlying the fee calculation change or the fee structure itself raises new considerations for borrowers.

Given the timing of the publication of the final rule and the availability of appropriated budget authority to defray the credit subsidy cost, HUD has decided not to impose a fee with respect to FY 2015 loan guarantee commitments. After considering the public comments received, HUD is establishing the fee at 2.58 percent of the principal amount of the loan disbursements for loan guarantee commitments awarded in FY 2016. The change in the amount of the fee is based on reasons given in the notice being published elsewhere in today's **Federal Register**. HUD published the anticipated 2.58 percent fee for FY 2016 on February 2, 2015, as part of the FY 2016 President's Budget.[5]

III. Discussion of Public Comments on February 5, 2015, Proposed Rule and Notice

Comment: A commenter responding to the issue, ''whether to require borrowers to pay fee amounts from other sources or allow borrowers to add up-front fees to the face value of the guaranteed loan by paying fees from guaranteed loan funds at the time of loan disbursement,'' stated that likely the best option is to build the fee into the loan proceeds amount. The commenter questioned, however, what might happen if a borrower needs to borrow a significantly large amount of money and needs to use the entire loan to subsidize the housing development or purchase. According to the commenter, the fee may deter borrowers from

[2] Section 101(c) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301(c)).

[3] Title II of Division L of the Consolidated Appropriations Act, 2014 (Public Law 113–76, 128 Stat. 5, approved January 17, 2014; 128 Stat. 604) (2014 HUD Appropriations Act).

[4] Title II of Division K of the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113–235, 128 Stat. 2130, approved December 16, 2014; 128 Stat. 2739) (2015 HUD Appropriations Act).

[5] The FY 2016 President's Budget for HUD is available at: *https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/hud.pdf.* The fee is specified in table 6 of the Federal Credit Supplement to the 2016 budget and is available at: *https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/cr_supp.pdf.*

choosing to finance through the Section 108 Program. The commenter recommended that borrowers be allowed to pay fees from other sources or add up-front fees to the face value of the guaranteed loan, stating that allowing borrowers the most flexibility regarding how to pay the fee would provide comfort to borrowers since the fee could result in higher net costs because the fee would take into account the risk of default and the borrower would have to pay interest on the financed fee. Another commenter stated that the fee should be imposed with as much flexibility as possible. According to the commenter, allowing the payment of the fee as part of the borrowing or with block grant funding would allow the borrower to borrow the loan fee and amortize it over the life of the loan. The commenter also stated that as entitlement communities adjust to the fee they will appreciate having the flexibility to best structure their loan deals to the project needs.

HUD Response: This final rule does not restrict borrowers to paying the fee with guaranteed loan proceeds or limit the source of the fee payment, but permits the payment with guaranteed loan funds. Specifically, as clarified by this final rule, § 570.712(a) states that ''[s]uch fees are payable from grants allocated to the issuer pursuant to the Act *(including program income derived therefrom or from other sources). . . .*'' (emphasis added). As a result, borrowers may use grant funds, pursuant to § 570.705(c)(1)(i), guaranteed loan funds, or program income to pay the fee.

Comment: The commenter also stated that the notice period is not explicitly stated in the proposed rule, except that it will be before the beginning of a fiscal year. According to the commenter, many borrowers plan their financial investments and obligations far in advance, and it would be good business for borrowers to be notified of the fee at least one quarter in advance of when the fee would be announced. The commenter asked whether HUD could, if unable to publish the final fee with sufficient advanced notice, publish a range of what the upcoming year's fee might be. The commenter also stated that the annual fee might cause borrowers whose time is more flexible without the immediate need to borrow to wait and see if the fee will be lower in the upcoming year.

HUD Response: The President's Budget is typically published each February preceding the beginning of a new fiscal year. As part of the Budget, HUD is required to publish its estimated Section 108 credit subsidy costs and the fee required to offset such costs approximately 7 months before the start of the fiscal year when any new fee rate would take effect. This period provides sufficient time to notify borrowers of the fee in advance of the beginning of the fiscal year. HUD believes that this time period should also provide potential borrowers sufficient opportunity to plan their financial investments and obligations.

Comment: Several commenters stated that what the fee might be in the future is a point of concern. According to the commenters, the proposed rule states only that ''future notices may provide for a combination of up front and periodic fees.'' As a result, how much those fees might be in the future or when they may take effect is a complete unknown. The commenters concluded that uncertainty makes any planning exercises relating to the Section 108 Program tenuous. One commenter asked HUD to reconsider the fee.

HUD Response: As stated in the response to the previous comment, HUD is required to specify the anticipated Section 108 credit subsidy cost and fee required to offset that cost approximately 7 months before the beginning of the fiscal year when the new fee rate would take effect. For fees applicable to commitments awarded in FY 2017 and thereafter, this will provide HUD sufficient time before the beginning of the fiscal year to notify potential borrowers as provided by § 570.712(b)(2). HUD would also note that only one fee schedule will apply to a loan guarantee commitment, *i.e.,* once HUD approves the application and awards a loan guarantee commitment, the fee applicable to the period covering the date of the commitment will apply to all loan disbursements under that commitment. HUD is clarifying this by revising § 570.712(b)(1) to state that the fee shall be based on the date of the loan guarantee commitment. HUD anticipates that applicants for Section 108 loan guarantees will have access to the fee schedule that will be applicable to commitments awarded pursuant to their applications. Thus, a Section 108 borrower that receives a loan guarantee commitment will not be subject to the kind of risk envisioned by the commenters. In response to the comment requesting that HUD reconsider the fee, without an appropriation for payment of the credit subsidy cost, HUD must impose a fee to offset credit subsidy costs of guaranteeing these loans.

Comment: A commenter stated that it would be in HUD's best interest to provide the maximum amount at which the fee may be set. According to the commenter, allowing the borrower the most flexibility with the fee will mitigate any deterrence against the newly imposed fee. Another commenter also stated that flexibility is important because no two Section 108 loans are exactly alike.

HUD Response: HUD will seek to publish a new fee rate at the earliest opportunity in order to provide borrowers maximum notice and flexibility. As noted above, HUD has seven months to notify the public of the anticipated new fee rate and will do so with sufficient time in advance of the fee taking effect. However, due to the assumptions that are taken into consideration in formulating the rate, HUD is not able to set a maximum amount at which the fee may be set.

Comment: A commenter stated that the fee is unnecessary and excessive, but recognized that that the elimination of a credit subsidy appropriation requires HUD to charge some fee. Several other commenters advocated for the continuation of using appropriated credit subsidy budget authority to address the Section 108 credit subsidy cost, but acknowledged that the President's Budget and the FY 2015 HUD Appropriation Act authorize HUD to collect fees. Several other commenters opposed any fee or other mechanism that requires grantees to pay for the subsidy cost of the program. Other commenters stated that the fee is unnecessary and counterproductive considering the fact that, as HUD pointed out in the proposed rule, ''there have been no defaults in the history of the program. HUD has never had to invoke its full faith and credit guarantee, nor has it paid out on any guarantee from the credit subsidy reserved each year for future losses.'' According to these commenters, HUD's requirements for grantees to pledge their CDBG allocations and furnish other security interests or collateral in case of default reduce HUD's credit risk to zero. Another commenter added that as part of the Section 108 loan guarantee application process, borrowers must identify appropriate collateral to cover 100 percent of the loan amount. This commenter stated that a key role for HUD is to evaluate and approve this collateral, and that HUD has never had to invoke its 100 percent guarantee even though a number of projects have failed or gone bankrupt. Another commenter stated that because of collateralization, instituting a loan fee calculated on assumptions of default is a ''functional fiction.''

Another commenter stated that because HUD limits an entitlement community to borrowing up to five

times its CDBG authority, a community's annual Section 108 repayment requirement would not exceed its available CDBG capacity under most common deal structures. The commenter suggested that at current rates, a standard term 20-year loan with straight amortization of the entire available loan capacity would require an annual payment of just over 25 percent of a community's CDBG allocation. According to the commenter, interest rates would have to increase to almost 20 percent to exceed a full allocation. The commenter also stated that this calculation assumes that the community would secure any debt only with its CDBG capacity. Prudent borrowing dictates that communities provide additional security for Section 108-funded loans. The commenter (a city) stated that it subjects Section 108 loans to the most stringent underwriting and requires substantial collateral, including a mortgage position on the property, personal and corporate guaranties from the Borrower, and the establishment of project debt reserves. These protections are rigorously reviewed by HUD's staff at the local and headquarters offices and subject to extensive review by the city's staff and its external loan review committee. The commenter concluded that HUD's debt is secured both by strong underwriting and collateral at the community level, reviewed and approved by HUD staff, and ultimately guaranteed by CDBG allocations that are more than sufficient to secure against a portfolio-wide default.

Another commenter stated that the Section 108 Program is set up to ensure payment is made to the bondholders on time through a pledge of grantees' CDBG lines of credit and collateral for each loan to secure approximately 125 percent of the loan amount. Because these mechanisms are in place to safeguard the loans, the commenter questioned the reason a fee is being proposed. The commenter stated that it appears that HUD does not recognize the impact of the fee on borrowers despite permitting the credit subsidy fees to be paid with proceeds from the Section 108 Loan Guarantee Program or by using CDBG funds.

HUD Response: In order to comply with the Federal Credit Reform Act of 1990, HUD must estimate the credit subsidy cost of a loan guarantee. Under Federal credit budgeting principles, the availability of CDBG funds to repay the guaranteed loans cannot be assumed in the development of the credit subsidy cost estimate. Thus, the estimate must incorporate the risk that alternative sources are used to repay the guaranteed loan in lieu of CDBG funds, and that those sources may be insufficient. Based on the annual rate that CDBG funds are used as repayment for loan guarantees, HUD's calculation of the credit subsidy cost must take into account the possibility of future defaults despite the history of no defaults in the program. When fees are collected by HUD, they are deposited into the *Financing Account* established in accordance with Federal Credit Reform Act procedures. The fees, together with interest earned thereon, will be used as the source for future years' default claims.

Comment: Several commenters also stated that credit subsidy is typically used to cover costs associated with delinquencies, interest subsidies, and other costs related to loans. The commenters questioned if HUD has not experienced a loss in the Section 108 Loan Guarantee Program, why charge a fee to cover those costs? One commenter stated that since there is no history of default due to the nature of the program, the fee should be as minimal as possible. Another commenter stated that HUD has not had to pay out on any guarantee from the credit subsidy reserve and asked what HUD will do with the accumulated fees it receives from grantees. Several other commenters recommended that HUD be required to keep the funds in a separate interest bearing account and, upon closeout of a grantee's Section 108 loans, that HUD should remit to the contributing grantees the fee amounts contributed plus interest minus their pro rata share of any pay-outs made from the fund by HUD. One commenter added that a portion of the fee should be available for recapture in the event that there is no default on a loan since this would be an added incentive to see that loans are underwritten properly and invested in only sustainable projects. Another commenter stated that any excess fees above actual costs should be recapitalized as credit subsidy in future years and/or credited against loan fees already paid.

HUD Response: These commenters generally question the need for the fee based on the fact that HUD has experienced no losses due to defaults on loans guaranteed under the Section 108 Program. As HUD stated in response to an earlier comment, the absence of losses to date does not mean that losses will never be incurred. The main reason that no losses have been incurred by HUD is that pledged CDBG funds have been available to repay guaranteed loans even when CDBG funds were not the planned source for repayment. If CDBG funds were not available, it is likely that some defaults would have occurred and that the collateral security for the defaulted loans would not have been sufficient to fully repay the outstanding obligations. HUD responds to the recommendation that fees be held during the loan repayment period and available for recapture by the Borrower in the event the loan is fully repaid with no default elsewhere in this discussion of public comments.

Comment: Several commenters also recommended various options for recapture of fees paid if not needed to cover actual losses (*e.g.,* refunds or credits against loan fees already paid).

HUD Response: As stated in HUD's preceding response, collected fees are deposited into the Section 108 *Financing Account.* It is important for the public to understand that the purpose of the fee is to offset the credit subsidy cost to the Federal Government of making the loan guarantee, as of the time of the loan disbursement. The commenters understand correctly that the credit subsidy cost is an estimate and, therefore, subject to change. In fact, the Federal Credit Reform Act procedures provide for the reestimate of the credit subsidy cost annually. Although the credit subsidy cost is reestimated annually and may be reduced in subsequent years, it may also be increased. The fee is nonrefundable, even if the cost is less than initially estimated. On the other hand, the borrower is not assessed additional fees for any deficiency in amounts available to the Federal Government if the cost is greater than initially estimated. The Federal Government assumes the risk that the fee initially charged will be insufficient to cover future losses. Thus, while borrowers do not benefit if the actual losses are less than originally estimated, they also are not penalized if losses are greater than initially estimated.

Comment: A commenter stated that HUD should consider reducing the fees based on the experience of the program because the HUD Section 108 Loan Guarantee Program is fiscally sound and that the Federal Government would not be faced with payments due to default.

HUD Response: HUD agrees that the program is fiscally sound. As stated above, however, if non-CDBG revenues are the expected source for repayment and those revenues fail to materialize as expected, it is likely that HUD would be required to make payments under its guarantee if CDBG funds are unavailable for that purpose. As also stated above, the Federal Credit Reform Act has been interpreted to preclude reliance on future, unappropriated funds in calculating the credit subsidy cost of a credit program.

Comment: A commenter stated that, in addition to publishing a notice in the **Federal Register** with the fee structure and levels, taking into consideration the total available commitment authority and what level of fees may be needed to operate the program, HUD should also provide statistics that explain how the fee is determined. This commenter asked whether HUD can provide an explanation for how the proposed fee of 2.42 [6] percent of the principal amount of the loan is determined and why HUD believes it should be a flat rate for the year, rather than a variable percentage based on market conditions. The commenter asked what would result if the fee is not high enough to cover the amount that would have been provided by credit subsidies, coupled with poor market conditions, resulting in less loan obligations under the program?

HUD Response: The fee is calculated using the data on default frequency for municipal debt, the recovery rates on collateral security for comparable municipal debt, and the expected composition of the Section 108 portfolio by end users of the guaranteed loan funds. These data will be updated periodically. The fee rate is the weighted average of the data based on the expected composition of the Section 108 portfolio. The data is adjusted to reflect the availability of appropriated CDBG funds in the early years of the loan guarantee cohort. The effect of the availability of appropriated CDBG funds is to reduce the credit subsidy cost and, thus, the fee payable by borrowers. It is important to understand that the fee applicable to a Section 108 guaranteed loan will be based on the fee schedule published in the **Federal Register** and in effect when the loan guarantee commitment is awarded and will not be subject to change. If the rate were changed periodically, as one commenter recommended, it would introduce additional uncertainty for borrowers and would make the Section 108 Program less useful as a financing tool for community and economic development projects. HUD will specify the default and recovery rates used in connection with the two categories of municipal debt used in calculating the fee in the notice, once published.

Comment: Several commenters stated that the manner in which HUD arrived at the proposed 2.42 percent fee is confusing. The commenters stated that instead of using actual Section 108 loan data to arrive at the proposed fee, HUD looked at the default frequency for municipal debt and data on recovery rates on collateral security for comparable municipal debt, and at the expected composition of the Section 108 portfolio by end users of the guaranteed loan funds (*e.g.,* third-party borrowers and public entities). The commenter stated that the credit subsidy fees should be risk-based and include a number of factors surrounding a grantee's Section 108 loan performance, including the number of payments made on time and the risk level for each loan made. Another commenter stated that the fee is based on long-term data derived from general municipal debt and industrial revenue bonds (IRB) loan history. According to the commenter, IRBs have higher default rates than general purpose debt. The commenter stated that HUD based 73 percent of its calculation on the default and recovery data for IRBs and only 27 percent on general purpose debt because HUD determined that most projects funded through its Section 108 Program fit better into IRB types of activities rather than into general purpose debt. The commenter stated that this is not the case with the commenter's program and suggested that each State have its own fee structure. The commenter also stated that an argument could be made that by the nature of the security and back-up security required by HUD for Section 108 loans (plus the ultimate CDBG allocation guarantee), Section 108 is actually more similar to a general obligation type of debt than a revenue bond.

Other commenters stated that they did not understand the justification for the proposed 2.42 percent fee. According to these commenters, the notice states that the fee ''would cover the cost associated with making a loan guarantee,'' however, the notice also states that the fee is based on assumptions on default frequency, recovery rates on collateral, the composition of the Section 108 loan portfolio by the end users, and nebulous ''other factors'' that HUD deems relevant. The commenters stated that there has never been a default in the history of Section 108 in which HUD has had to invoke full faith and credit or pay out any guarantee. The commenters suggested that the fee be based on costs related to the sale of notes and actual loan issuance, rather than the loan default and other costs mentioned in the notice. One commenter asked, ''If there are other costs related to the sale of notes and actual loan issuance that are no longer subsidized, why is that not the major focus of discussion?''

HUD Response: The commenters make a valid point regarding the fact that the fee represents the weighted average of data for two distinct categories of municipal debt. HUD will continue to work with the Office of Management and Budget (OMB) to study the feasibility of establishing separate fees for Section 108 loans according to which category of municipal debt is most comparable to the Section 108 loans to which a fee would apply. However, HUD has decided to retain the weighted average approach for the time being in order to avoid the disruption to the program that could be created by implementing separate fees. A Section 108 loan guarantee is not a general obligation in a large majority of cases. In some cases, however, borrowers have offered to pledge their full faith and credit.

Regarding the recommendation to focus on costs of issuance in lieu of default costs, the fee specified in HUD's proposed rule and related notice would only be imposed to reduce the credit subsidy cost for the Section 108 Program to zero. This final rule defines *Credit subsidy cost* to mean ''. . . the estimated long-term cost to the Federal Government of a Section 108 loan guarantee or a modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.'' Costs related to the sale of notes and loan issuances are not included in this definition and, in any event, are costs paid by borrowers and not by HUD. As stated in previous responses, the main reason why HUD has never been required to pay a default claim is that pledged CDBG funds have been available to repay the guaranteed loans. As also stated previously, the Federal Credit Reform Act has been interpreted to preclude reliance on the availability of future appropriations for purposes of calculating the Section 108 credit subsidy cost.

Comment: A commenter stated that if the fee is actually used to underwrite the staff and administrative costs of the Section 108 Program, then this should be the true nexus of the calculation for the fee being proposed.

HUD Response: As previously stated in HUD's responses to public comments, the only purpose of the fee is to reduce the credit subsidy cost to zero, and the definition of *credit subsidy cost* excludes administrative costs. As a result, the fee may not be used to pay

[6] Commenters cited and used in examples 2.42 percent as the amount of the fee to be applied to the principal amount of loans, based on the rate specified in the proposed rule and notice. However, as noted in Section II of this final rule and as published elsewhere in today's **Federal Register**, HUD is establishing the fee at 2.58 percent of the principal amount of the loan for commitments awarded in FY 2016.

for HUD staff or other program administration costs.

Comment: A commenter stated that the fee is based on a blended default rate of general purpose municipal debt and industrial development bonds, based on HUD's current loan portfolio. According to the commenter, the Section 108 loan is secured by future CDBG obligations, making it essentially a general debt obligation of the borrowing community. In addition, the commenter stated that unlike bonds secured by public taxation, HUD's ability to sequester CDBG allocations before distributing them to the community gives HUD complete control over the security which overall makes HUD's risk extremely low. The commenter suggested that the proposed 2.42 percent fee implies that $1 in every $40 lent by HUD defaults, which overestimates the default risk faced by HUD. According to the commenter, if HUD uses a blended rate, then the rate should more accurately reflect the current Section 108 default rate (zero percent).

HUD Response: Some of the factors noted by the commenter are, in effect, incorporated into the calculation of the credit subsidy cost. Using CDBG funds to make payment is not, in itself, a risk factor since borrowers are statutorily permitted to use CDBG funds to repay Section 108 loans and the loans are often most comparable to general purpose municipal debt (which has a lower expected default rate). Compliance with program requirements is not a factor that affects payment defaults.

Comment: Several commenters stated that the proposed fee seems to be an additional fee to the ''underwriting and issuance fee'' currently charged to Section 108 loans assessed at the time permanent financing is obtained. These commenters stated that § 570.712, entitled ''Collection of Fees; Procedure to Determine Amount of Fee,'' does not address the underwriting and issuance fee currently assessed, nor the interim financing fees currently assessed by HUD's fiscal agent. The commenters recommended that § 570.712 be revised to address all fees assessed on each Section 108 loan issuance, not just credit subsidy costs, which, according to the commenters, could be approximately 3.42 percent of the loan amount, subject to market conditions.

HUD Response: HUD does not agree with the commenters. The only purpose of § 570.712 is to authorize collection of the fee to pay the credit subsidy cost of a guaranteed loan and to establish a procedure for determining the amount of the fee. Section 570.705(g) addresses all issuance and other costs, including the new fee to pay the credit subsidy cost.

Comment: Two commenters stated that the Section 108 Program provides a relatively low cost to jurisdictions to borrow and urged HUD to keep it that way, stating that Section 108 funding is crucial to filling the gap between other committed funding and local project costs.

HUD Response: HUD agrees with the commenters and is working to ensure that the Section 108 Program continues to provide jurisdictions a source of low-cost financing.

Comment: Several commenters stated that the proposed fee of 2.42 percent of the principal amount plus the Section 108 Program's cost of funds, currently around 4 percent, will push the net cost of borrowing Section 108 funds too high for many of the types of economic development projects that have been undertaken, and urged HUD to lower the proposed fee. Other commenters stated that the fee will significantly reduce the value of the Section 108 Program as an economic development resource since these costs will be charged to the project, thus limiting the benefit or the financing. According to these commenters, this places an additional financial burden on borrowers and creates a disincentive to private developers and local governments to utilize this program. One commenter stated that the additional cost of the fee essentially serves as an increase in the cost of funds by 25 basis points over the term of a standard 20-year loan. According to the commenter, this is a significant cost to the financing since Section 108 debt is frequently used as gap financing, subject to a ''but for'' test. The increased costs of borrowing could kill projects, decrease the ability to use Section 108 financing to improve communities, and negatively impact equitable development since many projects benefit low- and moderate-income communities.

HUD Response: HUD believes that the Section 108 Program will continue to be an attractive financing source for community and economic development projects. In this regard, the rate on Section 108 loans will continue to be lower than the rate on most other taxable financing, and it will continue to offer highly flexible terms that conform to the financing needs of borrowers. While the fee will increase somewhat the cost of project financing, HUD recognizes the potential impact of the fee and will offer training to recipients to assist them in minimizing any adverse effect on their ability to meet their community and economic development needs. Based on the experience of other Federal credit programs (*e.g.,* programs administered by the Small Business Administration) that charge fees, HUD is confident that the Section 108 Program will continue to be an effective financing tool for CDBG recipients.

Comment: Several commenters stated that there should be an exemption for borrowers with good loan portfolios (*e.g.,* no record of late payments, defaults, adequate collateral to ensure repayment of their loans) and that have established a separate loan loss reserves to ensure repayment of their Section 108 loans. Another commenter stated that a borrower with a sound loan portfolio should be given a reprieve from these fees, unless a performance issue arises.

HUD Response: To allow for as smooth a transition as possible to the fee-based system for payment of credit subsidy costs, HUD will implement the assumptions proposed in the February 5, 2015, notice. HUD will formally announce the fee in the **Federal Register** once HUD has authority to award commitments and collect fees. However, HUD takes the commenters' proposal very seriously. Accordingly, the final rule will preserve the option for future revision of the fee schedule to incorporate a risk-based approach. However, it is highly unlikely that fees can be eliminated entirely because some risk of default will always exist.

Comment: One commenter sought clarification that the fee would be a one-time fee at the initiation of the loan and the final rule would not permit addition of any new fee during the term of the loan.

HUD Response: HUD is clarifying § 570.712(b)(1) to make clear that the fee will be based on the fee schedule published in the **Federal Register** and in effect when the loan guarantee commitment is awarded and will not be subject to change.

Comment: Several commenters stated that the fee should not apply to current Section 108 loan participants, as one commenter's program terms and assumptions have been made public based on assumptions that did not include the proposed fee, and the commenter has been advertising a rate based on current assumptions for over a year.

HUD Response: A fee will not apply to Section 108 commitments that have been approved, or to any future commitment for which appropriated credit subsidy budget authority has been obligated.

Comment: A commenter representing a State housing and community

development authority stated that the primary competitive advantages of the Section 108 Program over private lenders are its scale and its rate. The commenters stated that regard to scale, the proposed fee likely will have a chilling effect on the amount individual jurisdictions are willing to borrow, particularly to capitalize lending programs such as those administered by the commenter. With regard to rate, the commenter stated that the money will become significantly less attractive to its borrowers if it must also pass the fee to its borrowers. According to the commenter, if it decides not to pass the fee to its borrowers, it would have to determine another way to cover these costs even though these costs were not considered when the benefits and costs of deploying Section 108-backed capital were originally weighted. In this era of scarce discretionary dollars, according to the commenters, this represents a considerable challenge.

HUD Response: As stated above, the payment of a fee is not required for commitments that have already been awarded. HUD anticipates that it will be authorized in FY 2016 to collect fees from borrowers to result in a credit subsidy cost of zero for guaranteeing Section 108 loans, and anticipates publishing a fee in the **Federal Register** pursuant to § 570.712(b)(2) of this final rule. As previously stated, the purpose of the fee is to offset the credit subsidy cost to the Federal Government of making the loan guarantee, as of the time of the loan disbursement. Fees will not be added to the interest rate.

Comment: A commenter stated that the fee would be $968,000 on a $40 million Section 108 loan guarantee. According to the commenter, this amount would be very difficult for a State to pay and, if this fee were to be passed on to the end borrower, the State's interest rates would go from about 3.5 percent on permanent financing to 5.92 percent. The commenter concluded that, if HUD moves forward with the proposed fee, potential projects would look to other financial institutions, bonding entities, etc., particularly given all of the requisite Federal requirements, and the States' programs would be rendered nonviable.

HUD Response: Again, it is important to understand that the fee in FY 2016 will be an up-front payment, and will not be added to the interest rate. For example, if the interest rate on the guaranteed loan is 3.5 percent per annum, the borrower does not pay a rate of 5.92 percent per annum for both the interest and the fee. Rather, the borrower would pay the fee as a percent of the loan amount when that loan amount is disbursed by the lender to the borrower. Thereafter, the borrower would pay interest at a rate of 3.5 percent and would pay no further fees in connection with that loan disbursement. Depending on the term and principal payment schedule of the guaranteed loan, the fee will increase somewhat the borrowing costs—based on the most current Section 108 rates, the effective rate on a loan with a 20-year term would increase by approximately 25 to 30 basis points. Thus, under this example the effective borrowing cost would increase from 3.5 percent per annum to approximately 3.75 to 3.80 percent per annum. As stated in a previous response, HUD will also offer training for borrowers on how to minimize the impact of the fee.

Comment: Other commenters stated that withholding 2.42 percent of each drawdown in reserve is possible, yet is an undesirable option for States. According to the commenters, this practice would avoid the States' passing the cost down to the end borrowers, but results in States essentially paying HUD interest on money that they could never loan out and thus never receive proceeds on. One commenter stated that given the low State CDBG administrative allowance, States would not choose their administrative allowance to pay the Section 108 fee. Another stated that the money would come from the general administrative allocation. This commenter stated that assuming that the money may take 5 years to draw down incrementally, perhaps the interest paid on an annual basis will be affordable and this is the best way to approach the added fee, but the commenter also stated that it does not know how much administrative allocation ''cushion'' it has. The commenter also stated that, according to a HUD field office, CDBG funds used to pay the fee will not be subject to the 70 percent low- and moderate-income benefit objective and that is helpful.

HUD Response: The commenters noted some of the issues regarding the options available to States for paying the fee. As a reminder, HUD will provide training for borrowers regarding how to minimize the adverse impact of the fee. The treatment of a state's use of CDBG funds for payment of a fee requires clarification. The payment is authorized by § 570.705(c)(1)(i) in connection with the financing of the guaranteed loan and is not subject to the limitations on administrative costs at § 570.489.

Comment: A commenter stated that, based on its experience, the program could be operated with more efficiency so that loan decisions are rendered in a timely manner. The commenter offered to assist in developing ways to improve the process, drawing on its experience at the local level and working with different regional offices, to provide timely assistance to communities.

HUD Response: The reason for establishing the fee and the considerations in determining the rate are not affected by the timeliness of loan decisions. While HUD appreciates the offer of assistance and welcomes suggestions to improve the general process of administering the Section 108 Program, including providing assistance to local communities, such operations would not impact the necessity or amount of the fee.

IV. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This rule implements HUD's statutory authority to collect fees from borrowers to cover the credit subsidy costs of loan guarantees. As discussed in this preamble, HUD assists Section 108 borrowers' transition to a fee-based financing mechanism by allowing borrowers to include the fee in the guaranteed loan amount. This rule also permits borrowers to pay the fee with pledged CDBG funds. The amount of the fee would be determined by the amount required to fully offset the credit subsidy cost of the loan guarantees.

The 2015 HUD Appropriations Act does not appropriate credit subsidy budget authority for the Section 108 Program but requires that HUD charge borrowers a fee to result in a credit subsidy cost of zero. As a result, this rule reflects statutorily authorized actions which HUD determined that it must take to ensure uninterrupted operation of the Section 108 Loan Guarantee Program. By allowing borrowers to include the fee in the guaranteed loan amount or pay the fee with grant funds, guaranteed loan funds, or program income, HUD has strived to minimize the impact that imposing a fee may otherwise have on the program. Accordingly, it is HUD's determination that this rule does not have a significant economic impact on a substantial number of small entities.

Environmental Review

In accordance with 24 CFR 50.19(c)(6), this rule involves establishment of a rate or cost determination and related external administrative requirements and procedures which do not constitute a development decision that affects the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments nor preempt State law within the meaning of the Executive order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) program number for the Section 108 Loan Guarantee program is 14.248.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community Development Block Grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Loan programs—housing and community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and recordkeeping requirements, Student aid, Virgin Islands.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

■ 1. The authority citation for 24 CFR part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301–5320.

■ 2. In § 570.200, revise paragraph (a)(3)(iii) to read as follows:

§ 570.200 General policies.

* * * * *

(a) * * *

(3) * * *

(iii) Funds expended for the repayment of loans guaranteed under the provisions of subpart M of this part (including repayment of the portion of a loan used to pay any issuance, servicing, underwriting, or other costs as may be incurred under § 570.705(g)) shall also be excluded;

* * * * *

■ 3. In § 570.701, add in alphabetical order the definition of ''Credit subsidy cost'' to read as follows:

§ 570.701 Definitions.

* * * * *

Credit subsidy cost means the estimated long-term cost to the Federal Government of a Section 108 loan guarantee or a modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

* * * * *

■ 4. In § 570.703, add paragraph (n) to read as follows:

§ 570.703 Eligible activities.

* * * * *

(n) Payment of fees charged by HUD pursuant to § 570.712.

■ 5. Amend § 570.704 by adding paragraph (a)(1)(i)(D), revising paragraph (a)(1)(v), and removing and reserving paragraph (c)(2) to read as follows:

§ 570.704 Application requirements.

(a) * * *

(1) * * *

(i) * * *

(D) A description of any CDBG funds, including guaranteed loan funds and grant funds, that will be used to pay fees required under § 570.705(g). The description must include an estimate of the amount of CBDG funds that will be used for this purpose. If the applicant will use grant funds to pay required fees, it must include this planned use of grant funds in its consolidated plan.

* * * * *

(v) If an application for loan guarantee assistance is to be submitted by an entitlement or nonentitlement public entity simultaneously with the public entity's submission for its grant, the public entity shall include and identify in its proposed and final consolidated plan the activities to be undertaken with the guaranteed loan funds, the national objective to be met by each of these activities, the amount of any program income expected to be received during the program year, and the amount of guaranteed loan funds to be used. The public entity shall also include in the consolidated plan a description of the pledge of grants, as required under § 570.705(b)(2), and the use of grant funds to pay for any fees required under § 570.705(g). In such cases the proposed and final application requirements of paragraphs (a)(1)(i), (iii), and (iv) of this section will be deemed to have been met.

(c) * * *

(2) [Reserved]

* * * * *

■ 6. Amend § 570.705 by revising the heading of paragraph (c) and revising paragraph (g) to read as follows:

§ 570.705 Loan requirements.

* * * * *

(c) *Use of grants for loan repayment, issuance, underwriting, servicing, and other costs.*

* * * * *

(g) *Issuance, underwriting, servicing, and other costs.* (1) Each public entity or its designated public agency and each State issuing debt obligations under this subpart must pay the issuance, underwriting, servicing, trust administration, and other costs associated with the private sector financing of the debt obligations.

(2) Each public entity or its designated public agency and each State issuing debt obligations under this subpart must pay any and all fees charged by HUD pursuant to § 570.712.

* * * * *

■ 7. Add § 570.712 to subpart M to read as follows:

§ 570.712 Collection of fees; procedure to determine amount of the fee.

This section contains additional procedures for guarantees of debt obligations under section 108 when HUD is required or authorized to collect fees to pay the credit subsidy costs of the loan guarantee program.

(a) *Collection of fees.* HUD may collect fees from borrowers for the

purpose of paying the credit subsidy cost of the loan guarantee. Each public entity or its designated public agency and each State issuing debt obligations under this subpart is responsible for the payment of any and all fees charged pursuant to this section. The fees are payable from the grant allocated to the issuer pursuant to the Act (including program income derived therefrom) or from other sources, but are only payable from guaranteed loan funds if the fee is deducted from the disbursement of guaranteed loan funds.

(b) *Amount and determination of fee.* (1) HUD shall calculate the amount of the fee as a percentage of the principal amount of the guaranteed loan as provided by this section, based on a determination that the fees when collected will reduce the credit subsidy cost to the amount established by applicable appropriation acts. The amount of the fee payable by the public entity or State shall be based on the date of the loan guarantee commitment and shall be determined by applying the percentages announced by **Federal Register** notice to guaranteed loan disbursements as they occur or periodically to outstanding principal balances, or both.

(2) HUD shall publish in the **Federal Register** the fees required under paragraph (a) of this section, announcing the fee to be applied, the effective date of the fee, and any other necessary information regarding payment of the fee and, if necessary, provide a 30-day public comment period for the purpose of inviting comment on the proposed fee before adopting changes to the assumptions underlying the fee calculation or if the fee structure itself raises new considerations for Borrowers. HUD will publish a second **Federal Register** notice, if necessary, after consideration of public comments.

Dated: October 26, 2015.

Harriet Tregoning,

Principal Deputy Assistant, Secretary for Community Planning and Development.

Approved: October 19, 2015.

Nani A. Coloretti,

Deputy Secretary.

[FR Doc. 2015–28004 Filed 11–2–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR–5767–N–04]

RIN 2506–AC35

Section 108 Loan Guarantee Program: Announcement of Fee To Cover Credit Subsidy Costs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of fee.

SUMMARY: This document announces the fee that HUD will collect from borrowers of loans guaranteed under the HUD's Section 108 Loan Guarantee Program (Section 108 Program) to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in FY 2016, as authorized by the Continuing Appropriations Act, 2016. Elsewhere in today's **Federal Register**, HUD is publishing a final rule that amends its regulations to permit HUD to collect fees for Section 108 guaranteed loans.

DATES: *Effective Date:* December 3, 2015.

FOR FURTHER INFORMATION CONTACT: Paul Webster, Director, Financial Management Division, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7180, Washington, DC 20410; telephone number 202–708–1871 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. FAX inquiries (but not comments) may be sent to Mr. Webster at 202–708–1798 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Elsewhere in today's **Federal Register**, HUD is publishing a final rule that amends the Section 108 Program regulations to establish additional procedures when HUD is required or authorized to collect fees from Section 108 borrowers to offset the costs of the Section 108 loan guarantee commitments. Following consideration of the public comments submitted in response to HUD's February 5, 2015 (80 FR 6469) notice that proposed the fee required to offset the credit subsidy costs to the Federal government to guarantee Section 108 loans, HUD has determined to set the fee for Section 108 loan disbursements under loan guarantee commitments awarded in FY 2016 at 2.58 percent of the principal amount of the loan. As discussed below, and as HUD discusses in its final rule published elsewhere in today's **Federal Register**, HUD determined to not to impose a fee with respect to FY 2015 loan guarantee commitments. The public is directed to HUD's final rule for a detailed discussion by HUD of the significant issues raised by the public comments submitted in response to HUD's February 5, 2015, notice and HUD's response to those comments.

II. FY 2016 Fee: 2.58 Percent of the Principal Amount of the Loan

This document sets the fee for Section 108 loan disbursements under loan guarantee commitments awarded in FY 2016 at 2.58 percent of the principal amount of the loan. HUD will collect this fee from borrowers of loans guaranteed under the Section 108 Program to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in FY 2016, as authorized by the Continuing Appropriations Act, 2016 (Pub. L. 114–53, approved September 30, 2015). The calculation of the FY 2016 fee, which was specified in the FY 2016 President's Budget,[1] uses the same fee calculation model as the FY 2015 proposed fee included in HUD's February 5, 2015, notice, but incorporates updated information regarding the composition of the Section 108 portfolio and the timing of the estimated future cash flows for defaults and recoveries. The calculation of the fee is also affected by the discount rates required to be used by HUD when calculating the present value of the future cash flows as part of the Federal budget process.

As described in HUD's February 5, 2015, notice, HUD's credit subsidy calculation is based on the amount required to fully offset the credit subsidy cost to the Federal government associated with making a Section 108 loan guarantee. As a result, HUD's credit subsidy cost calculations incorporated assumptions based on: (i) Data on default frequency for municipal debt where such debt is comparable to loans in the Section 108 loan portfolio; (ii) data on recovery rates on collateral security for comparable municipal debt; (iii) the expected composition of the Section 108 portfolio by end users of the guaranteed loan funds (*e.g.,* third party borrowers and public entities); and (iv)

[1] The FY 2016 President's Budget for HUD is available at: *https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/hud.pdf.* The fee is specified in table 6 of the Federal Credit Supplement to the 2016 budget and is available at: *https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/cr_supp.pdf.*

other factors that HUD determines may be relevant to this calculation.

Taking these factors into consideration, HUD determined that the fee for disbursements made under loan guarantee commitments awarded in FY 2016 is 2.58 percent, which will be applied only at the time of loan disbursements. Note that future notices may provide for a combination of up-front and periodic fees for loan guarantee commitments awarded in future fiscal years but will be subject to the public comment provisions of § 570.712(b)(2) of the final rule.

As HUD discusses in response to public comment on the amount of the fee, the expected cost of a Section 108 loan guarantee is difficult to estimate using historical program data because there have been no defaults in the history of the program that required HUD to invoke its full faith and credit guarantee or use the credit subsidy reserved each year for future losses.[2] This is due to a variety of factors, including the availability of Community Development Block Grant (CDBG) funds as security. As authorized by Section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308), borrowers may make payments on Section 108 loans using CDBG grant funds. Borrowers may also make Section 108 loan payments from other anticipated sources but continue to have CDBG funds available should they encounter shortfalls in the anticipated repayment source.

The fee of 2.58 percent of the principal amount of the loan will offset the expected cost to the government due to default, financing costs, and other relevant factors. To arrive at this measure, HUD analyzed data on comparable municipal debt over an extended 16 to 23 year period. The estimated rate is based on the default and recovery rates for general purpose municipal debt and industrial development bonds. The cumulative default rates on industrial development bonds (14.62 percent) were higher than the default rates on general purpose municipal debt (0.25 percent) during the period from which the data were taken. (The recovery rates for industrial development bonds and general purpose debt were 74.76 and 90.27 percent, respectively.) These two subsectors of municipal debt were chosen because their purposes and loan terms most closely resemble those of Section 108 guaranteed loans. In this regard, Section 108 guaranteed loans can be broken down into two categories: (1) Loans that finance public infrastructure and activities to support subsidized housing (other than financing new construction) and (2) other development projects (*e.g.,* retail, commercial, industrial). The 2.58 percent fee was derived by weighting the default and recovery data for general purpose municipal debt and the data for industrial development bonds according to the expected composition of the Section 108 portfolio by corresponding project type. Based on dollar amount of Section 108 loan guarantee commitments awarded during the period from FY 2010 through FY 2014, HUD expects that 25 percent of the Section 108 portfolio will be similar to general purpose municipal debt and 75 percent of the portfolio will be similar to industrial development bonds. In setting the fee at 2.58 percent of the principal amount of the guaranteed loan, HUD believes that the amount generated will fully offset the cost to the Federal government associated with making guarantee commitments awarded in FY 2016.

Dated: October 26, 2015.

Harriet Tregoning,

Principal Deputy Assistant, Secretary for Community Planning and Development.

[FR Doc. 2015–28002 Filed 11–2–15; 8:45 am]

BILLING CODE 4210–67–P

[2] U.S. Department of Housing and Urban Development, Study of HUD's Section 108 Loan Guarantee Program, (prepared by Econometrica, Inc. and The Urban Institute), September 2012.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2015–0949]

RIN 1625–AA08

Special Local Regulation; Mavericks Surf Competition, Half Moon Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation in the navigable waters of Half Moon Bay, CA, near Pillar Point in support of the Mavericks Surf Competition, an annual invitational surf competition held at the Mavericks Break. This special local regulation will temporarily restrict vessel traffic in the vicinity of Pillar Point and prohibit vessels and persons not participating in the surfing event from entering the surf competition area. This regulation is necessary to provide for the safety of life on the navigable waters immediately prior to, during, and immediately after the surfing competition, which is held only one day during the period of November 1, 2015, through March 31, 2016.

DATES: *Effective date:* This rule is effective November 3, 2015 through March 31, 2016.

Enforcement date: This rule will be enforced on the competition day, which, if defined wave and wind conditions are met, will occur one day during the period from November 1, 2015, through March 31, 2016. This rule will be enforced from 6 a.m. until 6 p.m. on the actual competition day.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–0949 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 rulemaking, call or email Lieutenant Junior Grade Christina Ramirez, U.S. Coast Guard Sector San Francisco; telephone (415) 399–3585, email at *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR **Federal Register**
Pub. L. Public Law
§ Section
U.S.C. United States Code
OCMI Officer in Charge of Marine Inspections
NPRM Notice of Proposed Rulemaking

II. Background Information and Regulatory History

The Mavericks Surf Competition is a one day ''Big Wave'' surfing competition between the top 24 big wave surfers. The competition only occurs when 15–20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5–10 knots. The rock and reef ridges that make up the sea floor of the Pillar Point area, combined with optimal weather conditions, create the large waves that Mavericks is known for. Due to the hazardous waters surrounding Pillar Point at the time of the surfing competition, the Coast Guard is establishing a special local regulation in the vicinity of Pillar Point that restricts navigation in the area of the surf competition and in neighboring hazardous areas.

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 making this rule effective less than 30 days after publication in the **Federal Register**. It is impracticable to publish an NPRM because we must establish this special local regulation by November 1, 2015, and the competition would occur before the notice-and-comment rulemaking process would be completed. The rule needs to be effective by that date to respond to the potential safety hazards associated with the dangers posed by the surf conditions during the Mavericks Surf Competition. The regulated area is necessary to provide for the safety of event participants, spectator craft, and other vessels transiting the event area.

III. Legal Authority and Need for Rule

Under 33 CFR 100.35, the Coast Guard District Commander has authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta or marine parade. The Commander of Coast Guard District 11 has delegated to the Captain of the Port (COTP) San Francisco the responsibility of issuing such regulations.

The Cartel Management Inc. will sponsor the Mavericks Surf Competition. The Mavericks Surf Competition will take place on a day that presents favorable surf conditions on one day during the period from November 1, 2015, through March 31, 2016, from 6 a.m. until 6 p.m. in the navigable waters of Half Moon Bay, CA near Pillar Point in approximate position 37°29′34″ N., 122°30′02″ W. (NAD 83) as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18682. The regulation is issued to establish a regulated area on the waters surrounding the competition. This regulated area is bounded by an arc extending 1000 yards from Sail Rock (37°29′34″ N., 122°30′02″ W.) excluding the waters within Pillar Point Harbor. The regulated area is necessary to ensure the safety of mariners transiting the area.

IV. Discussion of the Rule

The Coast Guard will enforce a regulated area in navigable waters defined by an arc extending 1000 yards from Sail Rock between 6 a.m. and 6 p.m. on the day of the actual competition. Mavericks Surf Competition can only occur when 15–20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5–10 knots. Unpredictable weather patterns and the event's narrow operating window limit the Coast Guard's ability to notify the public of the event. The Coast Guard will issue notice of the event as soon as practicable, but no later than 24 hours before competition day via the Broadcast Notice to Mariners and will issue a written Boating Public Safety Notice at least 24 hours in advance of Competition day. Also, the zones that would be established by this rule will be prominently marked by at least 8 buoys throughout the course of the event.

The Mavericks Surf Competition will occur in the navigable waters of Half Moon Bay, CA, in the vicinity of Pillar Point as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18682. The Coast Guard will enforce a regulated area defined by an arc extending 1000 yards from Sail Rock (37°29′34″ N., 122°30′02″ W.) excluding the waters within Pillar Point Harbor. All restrictions would apply only between 6 a.m. and 6 p.m. on the day of the actual competition.

The effect of this regulation will be to restrict navigation in the vicinity of Pillar Point during the Mavericks Surf Competition. During the enforcement period, the Coast Guard will direct the movement and access of all vessels within the regulated area. The regulated area will be divided into two zones. Zone 1 will be designated as the competition area, and the movement of vessels within Zone 2 will be controlled by the Patrol Commander (PATCOM).

This regulation is needed to keep spectators and vessels a safe distance away from the event participants and the hazardous waters surrounding Pillar Point. Past competitions have demonstrated the importance of restricting access to the competition area to only vessels in direct support of the competitors. Failure to comply with the lawful directions of the Coast Guard could result in additional vessel movement restrictions, citation, or both.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.'s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

We expect the economic impact of this rule does not rise to the level of necessitating a full Regulatory Evaluation. The regulated area and associated regulations are limited in duration, and are limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the regulated area, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the regulations will result in minimum impact. The entities most likely to be affected are small commercial vessels, and pleasure craft engaged in recreational activities.

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 Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule may affect small commercial vessels, and pleasure craft engaged in recreational activities and sightseeing. This regulated area would not have significant economic impact on a substantial number of small entities for the following reasons. This regulated area would be activated, and thus subject to enforcement, for a limited duration. The maritime public will be advised in advanced of this regulated area via Broadcast Notice to Mariners.

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

Also, this rule does not have tribal implications under E.O. 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 would 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 regulated area of an arc extending 1000 yards and lasting less than 12 hours. It is categorically excluded from further review under paragraph 34(h) and 35(b) of Figure 2–1 of Commandant Instruction M16475.lD. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

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 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—REGATTAS AND MARINE PARADES

■ 1. The authority citation for part 100 is revised to read as follows:

Authority: 33 U.S.C. 1233; 33 CFR 1.05–1.

■ 2. Effective November 4, 2015 through March 31, 2016, suspend § 100.1106.

■ 3. Effective November 4, 2015 through March 31, 2016, add § 100.T11–739 to read as follows:

§ 100.T11–739 Special Local Regulation; Mavericks Surf Competition.

(a) *Location.* This special local regulation establishes a regulated area on the waters of Half Moon Bay, located in the vicinity of Pillar Point, excluding the waters within Pillar Point Harbor. This regulated area is defined in paragraph (c) of this section.

(b) *Enforcement period.* This section will be enforced between 6 a.m. and 6 p.m. on Competition day, which if defined wave and wind conditions are met, will occur for one day one day during the period from November 1, 2015, through March 31, 2016. Notice of the specific enforcement date of this section will be announced via Broadcast Notice to Mariners and issued in writing by the Coast Guard in a Boating Public Safety Notice at least 24 hours in advance of Competition day.

(c) *Definitions.* As used in this section—

Competition day means the one day between November 1 of each year and March 31 of the following year, that Mavericks Surf Competition will be held. The Mavericks Surf Competition will only be held if 15 to 20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5 to 10 knots.

Competitor means a surfer enrolled in the Mavericks Surf Competition.

Patrol Commander or *PATCOM* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer, or a Federal, State, or local officer designated by the Captain of the Port San Francisco (COTP), to assist in the enforcement of the special local regulation.

Regulated area means the area in which the Maverick's Surf Competition will take place. This area is bounded by an arc extending 1000 yards from Sail Rock (37°29′34″ N., 122°30′02″ W.) excluding the waters within Pillar Point Harbor. All coordinates are North American Datum 1983. Within the regulated area, at least two zones will be established and marked by buoys on the day of the competition. Due to the dynamic and changing nature of the surf, the exact size and location of the zones will not be made public until the competition day. The zones will be prominently marked by at least 8 buoys, placed and maintained throughout the course of the event by the event sponsor in a pattern approved by the PATCOM. In addition, the USCG will notify the public of the zone locations via Broadcast Notice to Mariners on the day of the event.

Spectator vessel means any vessel or person, including human powered craft,

which is not designated by the sponsor as a support vessel.

Support vessel means a vessel, including jet skis, which is designated and conspicuously marked by the sponsor to provide direct support to the competitors. Support vessels must be pre-designated and approved to serve as such for this event by the Officer in Charge of Marine Inspection (OCMI) prior to the competition.

Zone 1 means the competition area within the regulated area. Zone 1 will generally be located to the northwest of a line drawn between Sail Rock (37°29′34″ N., 122°30′02″ W.) and Pillar Point Entrance Lighted Gong Buoy 1 (37°29′10.410″ N., 122°30′21.904″ W.).

Zone 2 means the area within the regulated area where the Coast Guard may direct the movement of all vessels, including restricting vessels from this area. Zone 2 will generally be located to the southeast of a line drawn between Sail Rock (37°29′34″ N., 122°30′02″ W.) and Pillar Point Entrance Lighted Gong Buoy 1 (37°29′10.410″ N., 122°30′21.904″ W.).

(d) *Special local regulations.* The following regulations apply between 6 a.m. and 6 p.m. on the competition day.

(1) Only support vessels may be authorized by the Patrol Commander (PATCOM) to enter Zone 1 during the competition.

(2) Entering the water in Zone 1 by any person other than the competitors is prohibited. Competitors may enter the water in Zone 1 from authorized support vessels only.

(3) Spectator vessels and support vessels within Zone 2 must maneuver as directed by PATCOM. Given the changing nature of the surf in the vicinity of the competition, PATCOM may close Zone 2 to all vessels due to hazardous conditions. Due to weather and sea conditions, the Captain of the Port may deny access to Zone 2 and the remainder of the regulated area to all vessels other than competitors and support vessels on the day of the event

(4) Entering the water in Zone 2 by any person is prohibited.

(5) Rafting and anchoring of vessels are prohibited within the regulated area.

(6) Only vessels authorized by the PATCOM will be permitted to tow other watercraft within the regulated area.

(7) Spectator and support vessels in Zones 1 and 2 must operate at speeds which will create minimum wake, in general, 7 miles per hour or less.

(8) When hailed or signaled by the PATCOM by a succession of sharp, short signals by whistle or horn, the hailed vessel must come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

(9) During the events, vessel operators may contact the PATCOM on VHF–FM channel 13.

Dated: October 15, 2015.

Gregory G. Stump,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2015–27998 Filed 11–2–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0987]

RIN 1625–AA11

Regulated Navigation Area; Herbert C. Bonner Bridge, Oregon Inlet, NC

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area (RNA) on the navigable waters of Oregon Inlet, NC surrounding the Herbert C. Bonner Bridge. This RNA will allow the Coast Guard to enforce vessel traffic restrictions within the RNA when necessary to safeguard people and vessels from the hazards associated with potential catastrophic structural damage that could occur due to vessel allisions with the bridge.

DATES: This rule is effective on December 3, 2015.

ADDRESSES: Comments received from the public, as well as documents mentioned in this preamble are part of Docket Number USCG–2014–0987. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Open Docket Folder'' on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Derek Burrill, Waterways Management Division Chief, U.S. Coast Guard Sector North Carolina, telephone (910) 772–2230, email *Derek.J.Burrill@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP Captain of the Port
DHS Department of Homeland Security
FR **Federal Register**
RNA Regulated Navigation Area

A. Regulatory Information

On December 17, 2014, we published an interim final rule and request for comments entitled ''Regulated Navigation Area; Herbert C. Bonner Bridge, Oregon Inlet, North Carolina'' in the **Federal Register** (79 FR 75050). We received five comments coming from two submitters on the Interim Final Rule. No public meeting was requested, and none was held.

B. Background and Purpose

This rulemaking is authorized by 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; and DHS Delegation No. 0170.1. Under these authorities the Coast Guard may establish a RNA in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety. The purpose of this RNA is to reduce the risk of a bridge strike resulting from a vessel transiting through alternative spans of the Herbert C. Bonner Bridge, which are not intended for navigation. In addition, this RNA will serve to ensure vessels transiting the area are restricted to those that may do so safely, and will not impose unnecessary risk of harm to themselves or other maritime traffic. A bridge strike to un-fendered or unprotected structural elements of the Bonner Bridge would introduce a clear and present danger to stability of the bridge, motorists, mariners, and indirect impacts on local businesses and residents of Hatteras Island, NC. A grounded vessel in this heavily trafficked waterway would also greatly increase the risk of a bridge strike by another vessel.

When shoaling is present in the vicinity of the navigation span, vessels attempt to transit through alternate spans. Transiting through alternate spans is hazardous. Mariners transiting near and through the unprotected structural components increase the potential of a bridge strike; these spans do not have fenders or other mechanisms to protect the bridge from vessel strikes. Vessels that transit alternate bridge spans pose a risk to safe navigation as there are no advertised

vertical and horizontal clearances for these areas.

The Coast Guard has also considered the 2006 North Carolina Department of Transportation (NC DOT) biennial bridge inspection in accordance with National Bridge Inspection Standards (NBIS) for the Herbert C. Bonner Bridge. This report takes into account the substructure and superstructure inspections along with analysis of the maritime navigational and motor vehicle concerns. The report noted weakened pile supports as a result of section loss and substructure erosion to the point of showing exposed rebar. Publically available information provided by NC DOT indicates that the Herbert C. Bonner Bridge has a very low sufficiency rating. The Herbert C. Bonner Bridge is the only vehicular access to Hatteras Island for residents, commercial vendors, and business owners transiting from Nags Head-Bodie Island to Hatteras Island. The Bonner Bridge is subject to heavy traffic volume, particularly during the summer tourist season. Risks to the lives of mariners, vehicle motorist and passengers, have been considered in the development of this rulemaking.

C. Discussion of Comments and Changes

The Coast Guard received a total of five comments coming from two submitters on the Interim Final Rule. No public meeting was requested, and none was held.

Economic Effects: Limiting Passage of Certain Vessels Pursuant to Enforcing the RNA

Two comments were received about the possible economic effects of the interim rule on small entities and local economies. Specifically, the comments expressed concern that the RNA if utilized would have significant negative impact on commercial and recreational mariners and the regional economy because alternate routes around Oregon Inlet are distant.

As noted in the Interim Final Rule, there are alternate routes for vessels bound for Oregon Inlet, North Carolina and inland waterfront communities, including Wanchese, NC. Those alternate routes include transiting through Beaufort Inlet or Chesapeake Bay and the Atlantic Intracoastal Waterway and Sounds of North Carolina. The distance from Oregon Inlet Lighted Whistle Buoy ''OI'' to Wanchese, North Carolina via Beaufort Inlet, the Atlantic Intracoastal Waterway and Pamlico Sound is approximately 190 nautical miles. The distance from Oregon Inlet Lighted Whistle Buoy ''OI'' to Wanchese, North Carolina via Chesapeake Bay, the Atlantic Intracoastal Waterway and Albemarle Sound is approximately 200 nautical miles.

No change to the rule were made based on these comments because alternate access routes exist and should significant hazardous conditions be evident the potential risk of loss of life, damage to the bridge, and the impact on access to Hatteras Island outweighs the benefits of permitting navigation in the vicinity or under the Bonner Bridge. Additionally, the Coast Guard has and will continue to use all available resources to safely and efficiently monitor the conditions of the designated waters of this RNA to minimize impacts to the waterway users. Should the need arise for the Coast Guard to restrict vessel traffic in the RNA based on shoaling, hazardous conditions or severe weather conditions, these restrictions would be imposed for certain vessels who, in the discretion of the COTP, pose a safety risk to the bridge structure. Given this limited scope of restriction, any negative economic impact would be minimal and strongly outweighed by the associated safety concerns.

RNA Vessel Designation and Characteristics: Designation of Vessels Allowed To Transit Through the RNA

One comment was received that the rule does not provide sufficient notice regarding what types of vessels will be allowed to transit through the RNA when enforced. The comment acknowledged the Coast Guard authority to designate vessel characteristics of vessels which may navigate within the RNA but suggested that the RNA allow all vessels under 65 feet in length, with a draft of less than 6 feet and a tonnage under 50 tons to continue navigating in the vicinity of the RNA when being enforced.

The Coast Guard wants to impose the appropriate restrictions based on the conditions in the inlet. The Oregon Inlet waterway is constantly changing: Hurricanes and strong low pressure systems (*e.g.* Nor'easters) exacerbate tidal current and the seasonal fluctuations of the inlet's water depths. Also, frequent dredging and realignment of the approach channel east of the bridge has become routine. Publically available U.S. Army Corps of Engineers (USACE) hydrographic survey data over the past two years indicates shoaling to depths of less than 3 feet at mean low water within the approaches to the Herbert C. Bonner Bridge on a frequently occurring basis. Because many of these factors are uncontrollable, having the ability to impose variable restrictions dependent on conditions allows the Coast Guard to tailor the restrictions to vessels which pose the most significant risk and threat to the bridge while minimizing impacts on the commercial and recreational waterway users.

A change to the notification aspect of the rule was made based on this comment. As noted in the NPRM the Coast Guard will notify the public of restrictions via Local Notice to Mariners, Broadcast Notice to Mariners and via other methods described in 33 CFR 165.7. Also, Coast Guard personnel may be on-scene to advise the public of enforcement of any restrictions on vessel navigation within the RNA. In 33 CFR 165.520(c)(3), a provision was added so that the Coast Guard will also notify the maritime community of any imposed RNA restrictions or impacts to navigation through the U.S. Coast Guard HOMEPORT Web site and Marine Safety Information Bulletins. Additionally, the Coast Guard will notify recognized commissions and/or committees appointed by the Dare County, North Carolina elected officials who represent commercial and recreational mariner interests in Oregon Inlet, North Carolina, when practicable, prior to imposing restrictions pursuant to enforcement of the RNA. The rule also allows the COTP or his/her designated representative to permit vessel access on a case-by-case basis should heavy vessel traffic be present.

Rule Making Process: Interim Final Rule Verse Notice of Proposed Rulemaking

One comment was received that stated the Coast Guard should not have issued an Interim Final Rule as broad and restrictive as the Herbert C. Bonner Bridge RNA without first undertaking notice and comment procedures. The commenter felt that other Coast Guard RNA's were established using a notice and comment period and recommended replacing the Interim Final Rule with a temporary rule establishing a limited duration RNA and form a working group to determine what type of vessels and under what circumstances these vessels may navigate in Oregon Inlet.

No changes to the rule were based on these comments. The Coast Guard issued this interim final rule without prior notice and opportunity to comment before being enforceable 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.'' The Coast Guard maintains that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to protect the maritime public who transit Oregon Inlet and motorist that use the Herbert C. Bonner Bridge. The potential dangers posed by vessel strikes to the Herbert C. Bonner Bridge resulting in catastrophic damage makes immediate action necessary to minimize the risk of potential loss of life, damage to the bridge, and the impact on access to Hatteras Island. The shoaling in this area continues to worsen and the structural integrity of the bridge continues to deteriorate, which combine to create an unacceptable risk to the public that justified the issuance of an interim final rule. Accordingly, waiting for a comment period to run would be contrary to the public interest of protecting life, property and a vital motorist transit.

Additionally, the Interim Final Rule was issued with a 30 day request for comments to solicit and consider information in issuing a Final Rule from those entities that may be impacted by this rule.

Notification Process: Publicizing Enforcement of the RNA

One comment was received stating notification of the RNA requirements when enforced is critical due to the amount vessel traffic which utilizes the inlet, especially in the summer months.

One change to the rule was made based on this comment.

As noted in the NPRM the Coast Guard will notify the public of restrictions via Local Notice to Mariners, Broadcast Notice to Mariners and via other methods described in 33 CFR 165.7. Also, Coast Guard personnel may be on-scene to advise the public of enforcement of any restrictions on vessel navigation within the RNA. In 33 CFR 165.520(c)(3), a provision was added so that the Coast Guard will also notify the maritime community of any imposed RNA restrictions or impacts to navigation through the U.S. Coast Guard HOMEPORT Web site and Marine Safety Information Bulletins. Additionally, the Coast Guard will notify recognized commissions and/or committees appointed by the Dare County, North Carolina elected officials who represent commercial and recreational mariner interests in Oregon Inlet, North Carolina, when practicable, prior to imposing restrictions pursuant to enforcement of the RNA. The rule also allows the COTP or his/her designated representative to permit vessel access on a case-by-case basis should heavy vessel traffic be present.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

This regulation will restrict access within the Regulated Navigation Area at Oregon Inlet and the Herbert C. Bonner Bridge, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notifications of the regulated area to the maritime public via maritime advisories so mariners can adjust their plans accordingly; (ii) these restrictions will only be imposed based on the extent of shoaling, hazardous conditions and severe weather in the area, and will only be imposed on vessels that exceed certain size restrictions; and (iii) vessels impacted by this regulation may request permission from Commander Coast Guard Sector North Carolina/COTP North Carolina to transit the regulated area on a case by case basis.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The regulation may have an economic impact on vessels that normally transit Oregon Inlet. These small entities are primarily commercial and recreational fishing vessels. Operation of vessels of certain characteristics in this RNA will be prohibited from transiting Oregon Inlet by the Captain of the Port (COTP) or designated representative when shoaling in the vicinity of the Herbert C. Bonner Bridge creates unsafe condition for vessels. The potential risk of loss of life, damage to the bridge, and the impact on access to Hatteras Island outweighs the benefits of permitting navigation in the vicinity or under the Bonner Bridge.

Although the Oregon Inlet area is used by many small entities, including commercial and recreational fishing businesses, alternate routes are available to vessels. The Coast Guard will make extensive notifications of the regulated navigation area to the maritime public via maritime advisories so mariners can adjust their plans accordingly; and in extreme circumstances, vessels prohibited from entry may request permission from Commander Coast Guard Sector North Carolina/COTP North Carolina to transit the RNA on a case by case basis. Moreover the restrictions imposed will be based on the extent of shoaling, hazardous conditions and severe weather in the area, and limited only to vessels that exceed certain size restrictions.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the interim rule amending 33 CFR part 165 published at 79 FR 75050 on December 17.2014 is adopted as a final rule, with changes, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.520 to read as follows:

§ 165.520 Regulated Navigation Area; Herbert C. Bonner Bridge, Oregon Inlet, NC.

(a) *Regulated area.* The following area is a Regulated Navigation Area (RNA): All navigable waters of Oregon Inlet, North Carolina within 100 yards under or surrounding any portion of the Herbert C. Bonner Bridge.

(b) *Definitions.* As used in this section:

(1) *Captain of the Port* means the Captain of the Port (COTP) North Carolina.

(2) *Captain of the Port Representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port North Carolina to act as a designated representative of the COTP.

(3) *Hazardous Condition* means any condition that may adversely affect the safety of any vessel, bridge, structure, or shore area or the environmental quality of any port, harbor, or navigable waterway of the United States, as defined in 33 CFR 160.204.

(4) *Official patrol vessel* means any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessel(s) assigned and authorized by COTP North Carolina.

(c) *Regulations.* (1) The general regulations governing Regulated Navigation Areas found in 33 CFR 165.10, 165.11, and 165.13, including the Regulated Navigation Area described in paragraph (a) of this section and the following regulations, apply.

(2) Operation of vessels of certain characteristics in this RNA will be prohibited by the Captain of the Port (COTP) or designated representative in order to safeguard people and vessels from the hazards associated with shoaling and the Herbert C. Bonner Bridge from the potential catastrophic structural damage that could occur from a vessel bridge strike. The COTP or designated representative will evaluate local marine environmental conditions prior to issuing restrictions regarding vessel navigation. Factors that will be considered include, but are not limited to: hydrographic survey data, vessel characteristics such as displacement, tonnage, length and draft, current weather conditions including visibility, wind, sea state, and tidal currents.

(3) The Coast Guard will notify the public of restrictions via Local Notice to Mariners, Broadcast Notice to Mariners, electronic mail, U.S. Coast Guard HOMEPORT Web site, Marine Safety Information Bulletins and via other methods described in 33 CFR 165.7. Additionally, the Coast Guard will notify recognized commissions and/or committees appointed by the Dare

County, North Carolina elected officials who represent commercial and recreational mariner interests in Oregon Inlet, North Carolina, when practicable, prior to imposing restrictions pursuant to enforcement of the RNA. Coast Guard personnel may be on-scene to advise the public of enforcement of any restrictions on vessel navigation within the RNA.

(4) In accordance with the general regulations, entry into, anchoring, or movement within the RNA, during periods of enforcement, is prohibited unless authorized by the Captain of the Port (COTP) or the COTP's on-scene designated representative. The ''on-scene designated representative'' of the COTP is any Coast Guard commissioned, warrant or petty officer who has been designated by the COTP to act on the COTP's behalf. The on-scene representative may be on a Coast Guard vessel; State agency vessel, or other designated craft; or may be on shore and will communicate with vessels via VHF–FM marine band radio or loudhailer. Members of the Coast Guard Auxiliary may be present to assist COTP representatives with notification of vessel operators regarding the contents of this regulation.

(5) Any deviation from paragraph (c)(4) of this section due to extreme circumstances must be authorized by the Coast Guard District Commander, the Captain of the Port (COTP) or the COTP's designated representative. Vessels granted permission to transit the RNA must do so in accordance with the directions provided by the COTP or COTP representative to that vessel. To request permission to transit the regulated navigation area, the COTP or COTP representative can be contacted at Coast Guard Sector North Carolina, telephone number (910) 343–3880, or on VHF–FM marine band radio channel 13 (165.65 MHz) or channel 16 (156.8 MHz). During periods of enforcement, all persons and vessels given permission to enter or transit within the RNA must comply with the instructions of the COTP or designated representative. Upon being hailed by an official patrol vessel by siren, radio, flashing-light, or other means, the operator of a vessel must proceed as directed.

(d) *Enforcement.* The Coast Guard may be assisted in the patrol and enforcement of the Regulated Navigation Area by other Federal, State, and local agencies. The COTP may impose additional requirements within the RNA due to unforeseen changes to shoaling of Oregon Inlet or structural integrity of the Herbert C. Bonner Bridge.

(e) *Notification.* The Coast Guard will rely on the methods described in 33 CFR 165.7 and paragraph (c)(3) of this section to notify the public of the date, time and duration of any closure of the RNA. Violations of this RNA may be reported to the COTP at (910) 343–3880 or on VHF–FM channel 16.

Dated: October 9, 2015.

Stephen P. Metruck,

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

[FR Doc. 2015–28006 Filed 11–2–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2015–0546; A–1–FRL–9933–89–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Volatile Organic Compound Emissions From Large Aboveground Storage Tanks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. The revision amends Regulations of Connecticut State Agencies (RCSA) section 22a–174–20 to update the requirements for controlling volatile organic compound (VOC) emissions from large aboveground storage tanks. The intended effect of this action is to approve these regulations into the Connecticut SIP. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective January 4, 2016, unless EPA receives adverse comments by December 3, 2015. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments identified by Docket ID Number EPA–R01–OAR–2015–0546, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: mackintosh.david@epa.gov.*

3. *Fax:* (617) 918–0584.

4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2015–0546,'' David Mackintosh, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.

5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID Number EPA–R01–OAR–2015–0546. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy

form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact 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 legal holidays.

In addition, copies of the state's submittal are available for public inspection during normal business hours, by appointment at the state environmental agency: The Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: David Mackintosh, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–02), Boston, MA 02109–3912, telephone 617–918–1584, facsimile 617–918–0584, email *mackintosh.david@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. The following outline is provided to aid in locating information in this preamble.

I. What action is EPA taking?

EPA is approving a SIP revision submitted by the State of Connecticut on April 8, 2014, concerning updates to requirements for controlling VOC emissions from large aboveground storage tanks. The Connecticut requirements, set out in RCSA section 22a–174–20, ''Control of organic compound emissions,'' subsections (a), (b), (c) and (x), were revised to be consistent with the Ozone Transport Commission (OTC) model rule for large aboveground VOC storage tanks.

II. What is the background for this action?

EPA last approved RCSA section 22a–174–20, ''Control of organic compound emissions,'' subsections that addresses large aboveground storage tanks into the Connecticut SIP on October 18, 1991 (56 FR 52205).

On June 3, 2010, Connecticut signed an OTC Memorandum of Understanding (MOU) committing the state to the evaluation and adoption of an OTC model rule designed to reduce VOC emissions from large aboveground storage tanks.

On March 5, 2014, Connecticut revised RCSA section 22a-174–20 subsections (a), (b), (c) and (x) to update VOC emission control requirements from large aboveground storage tanks. On April 8, 2014, the Connecticut Department of Energy and Environmental Protection (DEEP), submitted the newly adopted subsections to EPA as a SIP revision.

III. What is included in the submittal?

Connecticut's April 8, 2014 SIP submittal includes revised RCSA section 22a-174–20, ''Control of organic compound emissions.'' Specifically, the following subsections of Connecticut's existing regulation were revised:

1. Subsection (a), ''Storage of volatile organic compounds and restrictions for the Reid vapor pressure of gasoline;''

2. subsection (b), ''Loading of gasoline and other volatile organic compounds,'' subdivisions (1) through (4) and (17);

3. subsection (c), ''Volatile organic compound and water separation;'' and

4. subsection (x), ''Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical & Polymer Manufacturing Equipment,'' subdivision (12).

IV. EPA's Evaluation of the Submittal

RCSA section 22a-174–20, ''Control of organic compound emissions,'' subsections (a), (b), (c) and (x) have been revised to incorporate the OTC model rules for large aboveground VOC storage tanks. Specifically, Connecticut adopted the following substantive changes:

1. Remove the option to use an un-domed floating roof tank to store VOCs, clarify inspection requirements, and add requirements for roof landing events, degassing, and cleaning operations in subsection (a);

2. Revise the storage and transfer of VOCs to include a lower vapor pressure floor for determining applicability and the vapor pressure is simplified by basing it on absolute vapor pressure rather than actual vapor pressure in subsections (a) and (b);

3. Add a requirement for the timely repair of leaks throughout the VOC storage and transfer facility as subdivision (b)(17);

4. Revise the floating roof requirements for volatile organic compound and water separators to be consistent with the floating roof requirements for storage tanks in subsection (c) and;

5. Revise the tank control provisions for synthetic organic chemical and polymer manufacturing equipment to require retesting within two days of repairs in subdivision (x)(12).

Connecticut's revised RCSA section 22a-174–20 includes additional and more stringent VOC emission controls than the previous SIP-approved version of the rule, and are generally consistent with the recommendations made within the OTC's model rule. Thus, the revised RCSA section 22a-174–20 satisfies the anti-back sliding requirements in Section 110(l) of the CAA and we are approving Connecticut's revised rule into the Connecticut SIP.

V. Final Action

EPA is approving and incorporating into the Connecticut SIP the following revisions of RCSA section 22a-174–20, ''Control of organic compound emissions,'' to update the control of emissions from large aboveground storage tanks:

(1) the amendment of subsection (a);

(2) the withdrawal of subdivision (b)(1);

(3) the amendment of subdivisions (b)(2), (b)(3) and (b)(4);

(4) the addition of subdivision (b)(17);

(5) the amendment of subsection (c); and

(6) the amendment of subdivision (x)(12).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment 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 this SIP revision should relevant adverse comments be filed. This rule will be effective January 4, 2016 without further notice unless the Agency receives relevant adverse comments by December 3, 2015.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 4, 2016 and no further action will be taken on the proposed rule.

Please note that if EPA receives adverse comment 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.

VI. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Regulations of Connecticut State Agencies described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

VII. Statutory and Executive Order Reviews

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

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

In addition, 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 4, 2016. 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 today's **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, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 27, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations 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 H—Connecticut

■ 2. Section 52.370 is amended by adding paragraph (c)(110) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(110) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on April 8, 2014.

(i) Incorporation by reference.

(A) Regulations of Connecticut State Agencies, revisions to Section 22a-174–20(a), as published in the Connecticut Law Journal on May 6, 2014, effective March 7, 2014:

(*1*) 22a–174–20(a);

(*2*) 22a–174–20(b)(2), (b)(3), (b)(4), and (b)(17);

(*3*) 22a–174–20(c); and

(*4*) 22a–174–20(x)(12).

(B) Regulations of Connecticut State Agencies, Subsection (b)(1) of Section 22a-174–20 is removed without replacement, as published in the Connecticut Law Journal on May 6, 2014, effective March 7, 2014.

■ 3. In § 52.385, Table 52.385 is amended by adding a new entry to an existing state citation for 22a-174–20 to read as follows:

§ 52.385—EPA-approved Connecticut regulations.

* * * * *

TABLE 52.385—EPA-APPROVED REGULATIONS

Connecticut state citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
22a-174–20	Control of organic compound emissions.	3/5/14	11/3/15	[Insert **Federal Register** citation].	(c)(110)	Large aboveground storage tanks updates: amend (a); withdraw (b)(1); amend (b)(2), (b)(3) and (b)(4); add (b)(17); amend (c) and (x)(12).
*	*	*	*	*	*	*

[FR Doc. 2015–27900 Filed 11–2–15; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0440; FRL–9936–35–Region 4]

Air Plan Approval; North Carolina; Conflict of Interest Infrastructure Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the North Carolina State Implementation Plan (SIP), submitted by the North Carolina Department of Environment and Natural Resources (DENR), Division of Air Quality (DAQ), on February 5, 2013, and supplemented on July 27, 2015. The submissions pertain to conflict of interest requirements of the Clean Air Act (CAA or Act) and were submitted to satisfy the infrastructure SIP sub-element related to the state board for the 2010 Nitrogen Dioxide (NO_2) National Ambient Air Quality Standards (NAAQS), 2010 Sulfur Dioxide (SO_2) NAAQS, 2008 8-hour Ozone NAAQS and 2008 Lead NAAQS. The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, commonly referred to as an ''infrastructure'' SIP, which includes conflict of interest requirements. EPA is taking final action to approve the portions of North Carolina's 2010 NO_2 infrastructure SIP, 2010 SO_2 infrastructure SIP, 2008 8-hour ozone infrastructure SIP, and 2008 Lead infrastructure SIP as meeting these State board requirements. EPA is also taking final action to convert conditional approvals related to the state board requirements for the 1997 8-hour ozone NAAQS, and the 1997 Annual Fine Particulate Matter ($PM_{2.5}$) and 2006 24-hour $PM_{2.5}$ NAAQS to full approval under the CAA. EPA notes that all other applicable North Carolina infrastructure SIP elements for the above listed NAAQS have been or will be addressed in separate rulemakings.

DATES: This rule will be effective December 3, 2015.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2015–0440. 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: Sean Lakeman, 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. Lakeman can be reached by telephone at (404) 562–9043 or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

SIPs meeting the requirements of sections 110(a)(1) and (2) of the CAA are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS.

EPA is taking final action to approve North Carolina's February 5, 2013, and July 27, 2015, submissions as: (1) Satisfying the requirements of section 128 of the CAA; and (2) the infrastructure SIP sub-element for section 110(a)(2)(E)(ii) related to the state board requirements for the 2010 NO_2 NAAQS, 2010 SO_2 NAAQS, 2008 8-hour Ozone NAAQS and 2008 Lead NAAQS.[1] Additionally, North Carolina's February 5, 2013, and July 27, 2015, submissions satisfy EPA's multiple conditional approvals of sub-element 110(a)(2)(E)(ii) published on February 6, 2012 (77 FR 5703), and October 16, 2012 (77 FR 63234), for the 1997 8-hour ozone NAAQS, and 1997

[1] Sub-element 110(a)(2)(E)(ii) was previously submitted by North Carolina DAQ previous submissions to EPA to satisfy the state board requirements for the referenced NAAQS. EPA is taking final action to approve the February 5, 2013, and July 27, 2015, final submissions in conjunction with the previously submissions for the 2010 NO_2 NAAQS (August 23, 2013), 2010 SO_2 NAAQS (March 18, 2014), 2008 8-hour Ozone NAAQS (November 2, 2012), and 2008 Lead NAAQS (July 20, 2012) as satisfying for the state board requirements of section 110(a)(2)(E)(ii) sub-element.

annual and 2006 24-hour $PM_{2.5}$ NAAQS, respectively.[2] As a result of today's action approving the State's submissions as meeting section 128 of the CAA, EPA is converting the aforementioned conditional approvals to full approvals regarding North Carolina's infrastructure requirements for section 110(a)(2)(E)(ii) for the 1997 8-hour ozone NAAQS, and 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.

EPA proposed to approve the February 5, 2013, and July 27, 2015, submissions in a notice of proposed rulemaking (NPR) published on August 24, 2015. *See* 80 FR 51167. The details of North Carolina's submittals and the rationale for EPA's actions are explained in the NPR. Comments on the proposed rulemaking were due on or before September 23, 2015. No adverse comments were received.

II. Final Action

As described above, EPA is taking final action to approve North Carolina's February 5, 2013, and July 27, 2015, submissions concerning the conflict of interest requirements of CAA section 128(a)(2) for inclusion into the North Carolina SIP.[3] Specifically, EPA is approving North Carolina's submissions related to the Secretary of the DENR and his/her delegatee that approve air permits or enforcement orders and as it relates to appealed matters decided by administrative law judges (ALJs). Additionally, EPA is approving the portions of North Carolina's 2010 NO_2 infrastructure SIP, 2010 SO_2 infrastructure SIP, 2008 8-hour ozone infrastructure SIP, and 2008 Lead infrastructure SIP related to 110(a)(2)(E)(ii). EPA is also converting previous conditional approvals for North Carolina's infrastructure submissions for the 1997 8-hour ozone NAAQS, 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS addressing CAA section 110(a)(2)(E)(ii) requirements to approvals.

III. 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).

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 January 4, 2016. 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: October 20, 2015.

Heather McTeer Toney,

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 II—North Carolina

■ 2. Section 52.1770(e), is amended by adding new entries for ''110(a)(1) and (2) Infrastructure Requirements for the 1997 8-hour Ozone NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 1997 Annual $PM_{2.5}$ NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2006 24-hour $PM_{2.5}$ NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2008

[2] Sub-element 110(a)(2)(E)(ii) was previously submitted by North Carolina DAQ to EPA to satisfy the state board requirements for the referenced NAAQS. EPA is taking final action to approve the February 5, 2013, and July 27, 2015, final submissions in conjunction with the previous conditional approvals for the 1997 8-hour ozone NAAQS and 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS as satisfying the state board requirements for this sub-element.

[3] As noted in the NPR, as of October 1, 2012, North Carolina has no boards or bodies with authority over air pollution permits or enforcement orders and therefore the requirements of section 128(a)(1) are not applicable.

Lead NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2008 8-hour Ozone NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2010 SO_2 NAAQS'' and ''Chapter 7A section 754 of the North Carolina General Statues'' at the end of the table to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA Approval date	**Federal Register** citation	Explanation
*	*	*	*	* * *
110(a)(1) and (2) Infrastructure Requirements for the 1997 8-hour Ozone NAAQS.	7/27/2015	11/3/2015	[Insert **Federal Register** citation].	approving 110(a)(2)(E)(ii) as it relates to the Secretary of the DENR and his/her delegatee that approve permit or enforcement orders and appealed matters decided by ALJs.
110(a)(1) and (2) Infrastructure Requirements for the 1997 Annual $PM_{2.5}$ NAAQS.	7/27/2015	11/3/2015	[Insert **Federal Register** citation].	approving 110(a)(2)(E)(ii) as it relates to the Secretary of the DENR and his/her delegatee that approve permit or enforcement orders and appealed matters decided by ALJs.
110(a)(1) and (2) Infrastructure Requirements for the 2006 24-hour $PM_{2.5}$ NAAQS.	7/27/2015	11/3/2015	[Insert **Federal Register** citation].	approving 110(a)(2)(E)(ii) as it relates to the Secretary of the DENR and his/her delegatee that approve permit or enforcement orders and appealed matters decided by ALJs.
110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS.	7/27/2015	.....	.....	approving 110(a)(2)(E)(ii) as it relates to the Secretary of the DENR and his/her delegatee that approve permit or enforcement orders and appealed matters decided by ALJs.
110(a)(1) and (2) Infrastructure Requirements for the 2008 8-hour Ozone NAAQS.	7/27/2015	.....	.....	approving 110(a)(2)(E)(ii) as it relates to the Secretary of the DENR and his/her delegatee that approve permit or enforcement orders and appealed matters decided by ALJs.
110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	7/27/2015	11/3/2015	[Insert **Federal Register** citation].	approving 110(a)(2)(E)(ii) as it relates to the Secretary of the DENR and his/her delegatee that approve permit or enforcement orders and appealed matters decided by ALJs.
110(a)(1) and (2) Infrastructure Requirements for the 2010 SO_2 NAAQS.	7/27/2015	11/3/2015	[Insert **Federal Register** citation].	approving 110(a)(2)(E)(ii) as it relates to the Secretary of the DENR and his/her delegatee that approve permit or enforcement orders and appealed matters decided by ALJs.
Chapter 7A section 754 of the North Carolina General Statues.	7/27/2015	11/3/2015	[Insert **Federal Register** citation].	Specifically, the following paragraph of 7A–754 stating ''The Chief Administrative Law Judge and the administrative law judges shall comply with the Model Code of Judicial Conduct for State Administrative Law Judges, as adopted by the National Conference of Administrative Law Judges, Judicial Division, American Bar Association, (revised August 1998), as amended from time to time, except that the provisions of this section shall control as to the private practice of law in lieu of Canon 4G, and G.S. 126–13 shall control as to political activity in lieu of Canon 5.'' is approved into the SIP.

§ 52.1773 [Amended]

■ 3. Amend § 52.1773 by removing paragraph (a), and redesignating paragraphs (b) and (c) as paragraphs (a) and (b), respectively.

[FR Doc. 2015–27881 Filed 11–2–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0034; FRL–9936–37–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Under the Federal Clean Air Act (CAA or Act) the Environmental Protection Agency (EPA) is approving revisions to the Oklahoma State Implementation Plan (SIP) submitted by the State of Oklahoma designee. The revisions are administrative in nature and modify redundant or erroneous text within the SIP. The revisions also incorporate new definitions and the current national ambient air quality standards (NAAQS) for four criteria pollutants; delete a subchapter that addresses motor vehicle pollution control devices; and add requirements for certain incinerators.

DATES: This rule is effective on January 4, 2016 without further notice, unless EPA receives relevant adverse comment

by December 3, 2015. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2011–0034, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions.
- Email: Carrie Paige at *paige.carrie@epa.gov.*
- Mail: Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2011–0034. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

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

FOR FURTHER INFORMATION CONTACT: Carrie Paige, (214) 665–6521 or *paige.carrie@epa.gov.* To inspect the hard copy materials, please schedule an appointment with her or Mr. Bill Deese at (214) 665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' means the EPA.

I. Background

Section 110 of the Act requires states to develop air pollution regulations and control strategies to ensure that air quality meets the EPA's NAAQS. These ambient standards are established under section 109 of the Act and they currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. The state's air regulations are contained in its SIP, which is basically a clean air plan. Each state is responsible for developing SIPs to demonstrate how the NAAQS will be achieved, maintained, and enforced. The SIP must be submitted to EPA for approval and any changes a state makes to the approved SIP also must be submitted to the EPA for approval.

The Secretary of the Oklahoma Department of Environmental Quality (ODEQ) submitted revisions for approval by EPA on July 16th and December 27th of 2010, February 6, 2012, and January 18, 2013. The revisions address air pollution regulations and control strategies codified in the Oklahoma Administrative Code (OAC) under Title 252 (DEQ), Chapter 100 (Air Pollution Control). Three of the four submittals include revisions that address air permitting and incorporate by reference applicable provisions of Title 40 of the Code of Federal Regulations (denoted 40 CFR). These revisions can be evaluated independently (*i.e.,* are severable) and will be evaluated in separate actions. Further, we are not acting on submitted revisions to the State's NOx rules because these revisions can be evaluated independently and we will consider these rule revisions in a separate action. Table C–1 in the Technical Support Document (TSD) lists the four submittals and identifies which portions are evaluated in this rulemaking action and which will be evaluated in separate actions.[1] The revisions under evaluation in Section II of this action apply to the following sections within Chapter 100: Subchapter 15 (Motor Vehicle Pollution Control Devices); subchapter 17 (Incinerators); subchapter 19 (Control of Emission of Particulate Matter); subchapter 25 (Visible Emissions and Particulates); appendices A and B within subchapter 17; appendices C, D, and G within subchapter 19; and appendices E and F within subchapter 3 (Air Quality Standards and Increments).[2]

The substantive revisions in the four submittals before us include incorporation of new definitions; updating the SIP with the current NAAQS for lead, ozone, nitrogen dioxide (NO_2) and sulfur dioxide (SO_2); and adding specific requirements for certain incinerators. The non-substantive revisions delete redundant definitions; move certain definitions into other locations within the SIP; and correct erroneous text.

The criteria used to evaluate these SIP revisions are found primarily in section 110 of the CAA. Section 110(l) requires that a SIP revision submitted to EPA be adopted after reasonable notice and public hearing and also requires that EPA not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Our TSD contains a detailed evaluation of the revisions, describing how each revision meets the requirements for SIP approval.

II. EPA's Evaluation of the Revisions

A synopsis of the submitted revisions and our evaluation follows.

A. Subchapter 15, Motor Vehicle Pollution Control Devices

The ODEQ removes subchapter 15 in its entirety. Subchapter 15 is duplicative of section 203 of the CAA. Subchapter 15 was not ever required to be in the Oklahoma SIP and did not supersede or otherwise modify requirements for pollution control devices on motor vehicles.[3] In addition, subchapter 15 was not used as a source of emission reductions and did not contribute toward attainment in Oklahoma (see 45 FR 79051, November 28, 1980). The

[1] The TSD is provided in the docket for this rulemaking.

[2] The cover letter for the January 18, 2013 submittal lists revisions to subchapter 31, but no such revisions were provided in the submittal package; therefore, they are not before EPA for consideration.

[3] Section 203 of the CAA prohibits tampering with any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with motor vehicle emission standards.

State's annual motor vehicle inspection and emission anti-tampering rules remain in the SIP (see 61 FR 7709, February 29, 1996). Removal of subchapter 15 from the SIP does not constitute loss in emission reductions because such rules are in place and enforceable at the federal level.

B. Subchapter 17, Incinerators

Part 1 clarifies that incinerators used to generate useful heat energy are subject to all applicable requirements of subchapter 17. Part 3 adds specificity by identifying the applicable sources; clarifying existing definitions and requirements; expanding incinerator design requirements to include operation requirements; and adding definitions for ''Particulate matter'' and ''Secondary combustion chamber.'' Other revisions to parts 1 and 3 are non-substantive and delete redundant text.

A new part 4 addresses biomedical waste incinerators. The new terms and definitions, design and operation, and emission limits are consistent with EPA's Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators (see 74 FR 51368, October 6, 2009 and 40 CFR 60.51c), and EPA's Standards Of Performance for Incinerators at 40 CFR 60, Subpart E.

The ODEQ removes appendix B, renames appendix A, and moves the appendix B formulas into A. A typographical error was corrected. There were no changes to the allowable emission rates.

C. Subchapter 19, Control of Emissions of Particulate Matter

The ODEQ submits new definitions for ''Condensable particulate matter,'' ''Filterable particulate matter,'' and ''Total particulate matter.'' They are consistent with the definitions addressing particulate matter at 40 CFR 51.100. Other revisions to this subchapter clarify that the particulate matter (PM) emission rates in this subchapter refer to condensable and filterable PM.

The submitted revisions also address appendices C, D and G within subchapter 19. The revisions are confined to retitling the appendices, such that each now includes ''particulate matter'' in its title.

D. Subchapter 25, Visible Emissions and Particulates

The submitted revisions include a non-substantive edit to style and the correction of an error in a citation at 100–25–3(b)(3). These revisions to subchapter 25 provide consistency and accuracy.

E. Appendix E (Primary Ambient Air Quality Standards) and Appendix F (Secondary Ambient Air Quality Standards)

The ODEQ revised appendices E and F for the 2008 NAAQS for ozone [4] and lead and the 2010 NAAQS for NO_2 and SO_2.

F. Consistency With Section 110(l) of the CAA

The submitted revisions addressed in today's rulemaking provide consistency with the NAAQS and EPA's rules regarding incinerators, and provide clarity and accuracy, thus improving the Oklahoma SIP. These revisions will not interfere with any applicable requirement regarding attainment or any other applicable requirement of the CAA and are consistent with section 110(l) of the Act.

III. Final Action

The EPA is approving all or parts of four Oklahoma SIP submittals. Specifically, we are approving the portions of the July 16, 2010 submittal that revise appendices C, D, E, F and G and subchapters 19 and 25. We are also approving in whole the December 27, 2010 submittal that revises subchapter 15 and appendices E and F. We are also approving the portion of the February 6, 2012 submittal that revises appendix E. We are also approving the portion of the January 18, 2013 submittal that revises subchapter 17 and appendices A and B. The EPA is approving these SIP revisions in accordance with the requirements of the CAA.

The EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on January 4, 2016 without further notice unless we receive adverse comment by December 3, 2015. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. 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.

[4] On October 1, 2015, the EPA announced its decision to strengthen the ozone NAAQS, which does not obstruct our action here. See [*http://www3.epa.gov/airquality/ozonepollution/actions.html#sep2015*]. Because Oklahoma elects to have its SIP refer to specific iterations of the NAAQS, it will need to revise it from time to time to reflect the current NAAQS.

IV. Incorporation by Reference

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.4, we are finalizing the incorporation by reference of the revisions to the Oklahoma regulations as described in the preceding Final Action section. We have made, and will continue to make, these documents generally available electronically through *www.regulation.gov* and/or in hard copy at the EPA Region 6 office.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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 January 4, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 20, 2015.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart LL —Oklahoma

■ 2. In § 52.1920, the table in paragraph (c) under the heading entitled ''Chapter 100 (OAC 252:100). Air Pollution Control'' is amended by:

■ a. Removing the heading entitled ''Subchapter 15. Motor Vehicle Pollution Control Devices'' and the entries under this heading;

■ b. Revising entries for ''252:100–17–1'' and ''252:100–17–1.1'';

■ c. Removing the entry for ''252:100–17–1.2'';

■ d. Adding an entry for ''252:100–17–1.3'' in numerical order;

■ e. Revising entries for ''252:100–17–2'', ''252:100–17–2.1'', ''252:100–17–2.2'', ''252:100–17–4'', ''252:100–17–5'', ''252:100–17–5.1'', and ''252:100–17–7'';

■ f. Adding the heading entitled ''Part 4. Biomedical Waste Incinerators'' and entries for ''252:100–17–8'', ''252:100–17–9'', ''252:100–17–10'', and ''252:100–17–11'' in numerical order;

■ g. Revising entries for ''252:100–19–1.1'' and ''252:100–19–11'';

■ h. Revising the entry for ''252:100–25–3'';

■ i. Revising the entry for ''252:100, Appendix A'';

■ j. Removing the entry for ''252:100, Appendix B''; and

■ k. Revising entries for ''252:100, Appendix C'', ''252:100, Appendix D'', ''252:100, Appendix E'', ''252:100, Appendix F'', and ''252:100, Appendix G''.

The revisions and additions read as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

EPA Approved Oklahoma Regulations

State citation	Title/Subject	State effective date	EPA Approval date	Explanation
*	*	*	*	*
CHAPTER 100 (OAC 252:100). AIR POLLUTION CONTROL				
*	*	*	*	*
Subchapter 17. Incinerators Part 1. General Provisions				
252:100–17–1	Purpose	7/11/2010	11/3/2015 [Insert **Federal Register** citation]	
252:100–17–1.1	Reference to 40 CFR	7/11/2010	11/3/2015 [Insert **Federal Register** citation]	
252:100–17–1.3	Incinerators and fuel-burning equipment or units.	7/11/2010	11/3/2015 [Insert **Federal Register** citation]	
Part 3. Incinerators				
252:100–17–2	Applicability	7/11/2010	11/3/2015 [Insert **Federal Register** citation]	

EPA APPROVED OKLAHOMA REGULATIONS—Continued

State citation	Title/Subject	State effective date	EPA Approval date	Explanation
252:100–17–2.1	Exemptions	7/11/2010	11/3/2015 [Insert **Federal Register** citation]	
252:100–17–2.2	Definitions	7/11/2010	11/3/2015 [Insert **Federal Register** citation]	
* *	* *		* *	*
252:100–17–4	Particulate matter	7/11/2010	11/3/2015 [Insert **Federal Register** citation]	
252:100–17–5	Incinerator design and operation requirements.	7/11/2010	11/3/2015 [Insert **Federal Register** citation]	
252:100–17–5.1	Alternative incinerator design requirements.	7/11/2010	11/3/2015 [Insert **Federal Register** citation]	
252:100–17–7	Test methods	7/11/2010	11/3/2015 [Insert **Federal Register** citation]	
Part 4. Biomedical Waste Incinerators				
252:100–17–8	Applicability	7/1/2011	11/3/2015 [Insert **Federal Register** citation]	
252:100–17–9	Definitions	7/1/2011	11/3/2015 [Insert **Federal Register** citation]	
252:100–17–10	Design and operation	7/1/2011	11/3/2015 [Insert **Federal Register** citation]	
252:100–17–11	Emission limits	7/1/2011	11/3/2015 [Insert **Federal Register** citation]	
Subchapter 19. Control of Emission of Particulate Matter				
* *	* *		* *	*
252:100–19–1.1	Definitions	7/1/2009	11/3/2015 [Insert **Federal Register** citation]	
* *	* *		* *	*
252:100–19–11	Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units.	7/1/2009	11/3/2015 [Insert **Federal Register** citation]	
* *	* *		* *	*
Subchapter 25. Visible Emissions and Particulates				
* *	* *		* *	*
252:100–25–3	Opacity limit	7/1/2009	11/3/2015 [Insert **Federal Register** citation]	
* *	* *		* *	*
Appendices for OAC 252: Chapter 100				
252:100, Appendix A	Allowable Particulate Matter Emission Rate for Incinerators.	7/11/2010	11/3/2015 [Insert **Federal Register** citation]	
252:100, Appendix C	Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units.	7/1/2009	11/3/2015 [Insert **Federal Register** citation]	
252:100, Appendix D	Allowable Particulate Matter Emission Rates for Indirectly Fired Wood Fuel-Burning Units.	7/1/2009	11/3/2015 [Insert **Federal Register** citation]	
252:100, Appendix E	Primary Ambient Air Quality Standards.	7/1/2011	11/3/2015 [Insert **Federal Register** citation]	
252:100, Appendix F	Secondary Ambient Air Quality Standards.	7/1/2010	11/3/2015 [Insert **Federal Register** citation]	
252:100, Appendix G	Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units and Industrial Process.	7/1/2009	11/3/2015 [Insert **Federal Register** citation]	
* *	* *		* *	*

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[FR Doc. 2015–27918 Filed 11–2–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2014–0812; FRL–9935–82–Region 9]

Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Nevada; Infrastructure Requirements for Ozone, NO_2 and SO_2

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Environmental Protection Agency (EPA) is approving in part and disapproving in part State Implementation Plan (SIP) revisions submitted by the State of Nevada pursuant to the requirements of the Clean Air Act (CAA) for the 2008 ozone national ambient air quality standards (NAAQS), the 2010 nitrogen dioxide (NO_2) NAAQS and the 2010 sulfur dioxide (SO_2) NAAQS. The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by the EPA, and that EPA act on such SIPs. Nevada has met most of the applicable requirements. Where EPA is disapproving, in part, Nevada's SIP revisions, the deficiencies have already been addressed by a federal implementation plan (FIP).

DATES: This final rule is effective on December 3, 2015.

ADDRESSES: EPA has established a docket for this action, identified by Docket ID Number EPA–R09–OAR–2014–0812. The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Tom Kelly, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3856, *kelly.thomasp@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

Table of Contents

I. Background

Section 110(a)(1) of the CAA requires each state to submit to EPA, within three years (or such shorter period as the Administrator may prescribe) after the promulgation of a primary or secondary NAAQS or any revision thereof, a SIP that provides for the ''implementation, maintenance, and enforcement'' of such NAAQS. EPA refers to these specific submissions as ''infrastructure'' SIPs because they are intended to address basic structural SIP requirements for new or revised NAAQS.

EPA issued a revised NAAQS for ozone on March 28, 2010, for NO_2 on February 9, 2010, and for SO_2 on June 22, 2010.[1] [2] [3] These NAAQS revisions triggered requirements for states to submit an infrastructure SIP to address the applicable requirements of section 110(a)(2) within three years. The Nevada Department of Environmental Protection (NDEP) has submitted several infrastructure SIP submittals in response to EPA's promulgation of these NAAQS, including:

Ozone

- The Nevada Division of Environmental Protection Portion of the Nevada State Implementation Plan for the 2008 Ozone NAAQS: Demonstration of Adequacy April 10, 2013;
- State Implementation Plan Revision to Meet the Ozone Infrastructure SIP Requirements of the Clean Air Act § 110(a)(2), Clark County, Nevada, February, 2013;
- The Washoe County Portion of the Nevada State Implementation Plan for the 2008 Ozone NAAQS: Demonstration of Adequacy, February 28, 2013.

NO_2

- NDEP letter to EPA, dated May 9, 2013 and Washoe County letter, dated April 26, 2013, containing the Approved Minutes of the February 28, 2013 public hearing and the Certificate of Adoption;
- The Nevada Division of Environmental Protection Portion of the Nevada State Implementation Plan for the 2010 Nitrogen Dioxide Primary NAAQS: Demonstration of Adequacy and appendices, January 18, 2013;
- State Implementation Plan Revision to Meet the Nitrogen Dioxide Infrastructure SIP Requirements of the Clean Air Act § 110(a)(2), and attachments Clark County, Nevada, December, 2012;
- The Washoe County Portion of the Nevada State Implementation Plan to Meet the Nitrogen Dioxide Primary NAAQS; Final Submittal, March 15, 2013.

SO_2

- The Nevada Division of Environmental Protection Portion of the Nevada State Implementation Plan for the 2010 Sulfur Dioxide Primary NAAQS, and appendices, June 3, 2013;
- State Implementation Plan Revision to Meet the Sulfur Dioxide Infrastructure SIP Requirements of the Clean Air Act § 110(a)(2), and attachments Clark County, Nevada, May, 2013;
- The Washoe County Portion of the Nevada State Implementation Plan to Meet the Sulfur Dioxide Infrastructure SIP Requirements of Clean Air Act § 110(a)(2), and attachments, March 28, 2013.

We refer to these submittals collectively as ''Nevada's Infrastructure Submittals.''

On May 20, 2015 (80 FR 28893), EPA proposed to approve in part, and disapprove in part, these SIP revisions addressing the infrastructure requirements of CAA section 110(a)(1) and (2) for the 2008 ozone, the 2010 NO_2, and the 2010 SO_2 NAAQS. Except for the interstate transport elements of 110(a)(2)(D)(i)(I) for the 2008 ozone and 2010 SO_2 NAAQS, we are taking final action on all the Nevada Infrastructure Submittals since they collectively address the applicable infrastructure SIP requirements.

Nevada's submittals also requested that EPA reclassify the Nevada Intrastate Air Quality Control Region from priority IA to priority III for SO_2 emergency episodes and remove historic, outdated language at 40 CFR 52.1475 from the state's approved SIP. Our Notice of

[1] 73 FR 16436. This final rule reduced the ozone NAAQS from 0.08 parts per million (ppm) to 0.075 ppm.

[2] 75 FR 6474. This final rule revised the primary NO_2 NAAQS from an annual arithmetic average to a one-hour NO_2 NAAQS of 100 parts per billion (ppb) and left unchanged EPA's secondary annual NO_2 NAAQS. The form of the 1-hour standard is the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum NO_2 concentrations.

[3] This final rule revoked EPA's annual and 24-hour SO_2 NAAQS and a 1-hour NAAQS of 75 ppb. The form of the 1-hour standard is the 3-year average of the 99th percentile of the yearly distribution of 1-hour daily maximum SO_2 concentrations.

Proposed Rulemaking included these proposed changes. We also proposed to define the term Nevada Intrastate Air Quality Control Region and proposed to reclassify the Las Vegas Intrastate Air Quality Control Region from priority IA to priority III for SO_2 emergency episodes.

The rationale supporting EPA's actions is explained in our May 20, 2015 Notice of Proposed Rulemaking (proposed rule) and the associated technical support documents (TSDs) and will not be restated here.[4] [5] The proposed rule and TSD are available online at *http://www.regulations.gov,* Docket ID number EPA–R09–OAR–2015–0812.

II. EPA's Response to Comments

The public comment period on EPA's proposed rule opened on May 20, 2015, the date of its publication in the **Federal Register**, and closed on June 19, 2015. During this period, EPA received comments from an unidentified commenter, NDEP, and a single comment letter from the Sierra Club and Earthjustice. The comments are summarized below; full text of these comments is available in the docket to this final rule.[6]

A. Unidentified Commenter

Comment: The commenter supported the partial disapproval of the Nevada SIP and discussed the health benefits of minimizing criteria pollutants and maintaining low levels of nitrogen dioxide, sulfur dioxide and ozone. The commenter asserted that with stricter standards, clean renewable energy may become more popular.

Response: EPA acknowledges the support for our action. We do wish to clarify that EPA's partial approval and partial disapproval of elements of the Nevada SIP will not result in changes to air quality regulation in Nevada, as the specific deficiencies have already been addressed by the delegation of EPA's prevention of significant deterioration of air quality (PSD) program to NDEP and Washoe County. The need for this action, however, did result from EPA's lowering of its NAAQS for ozone (in 2008), nitrogen dioxide (in 2010) and sulfur dioxide (in 2010).

B. NDEP Comments

NDEP Comment 1: NDEP suggested that EPA revise and approve all proposed disapprovals in the proposed rulemaking. The commenter contended that the proposed disapproval of two elements, CAA section 110(a)(2)(C) and (D), were based on NDEP and Washoe County having a delegated PSD programs. The commenter further claimed that the proposed disapprovals stem from EPA's interpretation that a delegated PSD program is not considered part of the applicable Nevada SIP. Next, NDEP cited **Federal Register** language from EPA's approval and disapproval of a recent Nevada Infrastructure SIP, ''the SIP, viewed broadly, thus includes both portions of the plan submitted by the State and approved by EPA as well as any FIP promulgated by EPA to substitute for a State plan disapproved by EPA or not submitted by a State.'' [7] Then the commenter stated ''the NDEP suggests that this broad interpretation of what constitutes Nevada's applicable SIP is the appropriate interpretation . . . delegation is an acceptable method for implementing a PSD program and no penalties to the state apply if they choose that option.''

Response: We disagree with NDEP's suggestion that Nevada's I–SIP Submittals should be approved for PSD-related infrastructure SIP requirements for the NDEP and Washoe County jurisdictions. We note that NDEP and Washoe County submitted similar comments in 2012 and 2013 with respect to EPA's proposed rulemaking on infrastructure SIPs for the 1997 ozone, 1997 fine particulate matter ($PM_{2.5}$), and 2006 $PM_{2.5}$ NAAQS; and proposed rulemaking on infrastructure SIPs for the 2008 Pb NAAQS. Our response to NDEP's comment largely reiterates our response to NDEP and Washoe County's comments on delegated PSD FIP programs during our 2012 and 2014 rulemakings on Nevada's infrastructure SIPs.[8]

The CAA requires each state to adopt and submit a plan which provides for implementation, maintenance, and enforcement of the NAAQS. *See* CAA section 110(a)(1). Section 110(a)(2) sets forth the content requirements for such plans, including the requirement for a permit program as required in part C (''Prevention of Significant Deterioration of Air Quality,'' or ''PSD'') of title I of the CAA. Such plans are referred to as state implementation plans or SIPs.

EPA's authority to promulgate a FIP derives from EPA's determination that a state has failed to submit a complete, required SIP submission or from EPA's disapproval of a state submission of a SIP or SIP revision. *See* CAA section 110(c)(1). The SIP, viewed broadly, thus includes both portions of the plan submitted by the state and approved by EPA as well as any FIP promulgated by EPA to substitute for a state plan disapproved by EPA or not submitted by a state.[9]

In 1974, EPA disapproved each state's SIP with respect to PSD and promulgated a FIP as a substitute for the SIP deficiency (''PSD FIP'').[10] In 1975, EPA codified the PSD FIP in each state's subpart in 40 CFR part 52.[11] In 1978 and 1980, EPA amended the PSD regulations following the Clean Air Act Amendments of 1977 and related court decisions and amended the codification of the PSD FIP in each state's subpart, including 40 CFR 52.1485, accordingly.[12]

Since then, EPA has approved the PSD SIP for the sources and geographic area that lie within the jurisdiction of Clark County Department of Air Quality (DAQ), and has delegated responsibility for conducting PSD review, as per the PSD FIP, to NDEP and Washoe County. Notwithstanding the delegation, however, the Nevada SIP remains deficient with respect to PSD for the geographic areas and stationary sources that lie within NDEP's and Washoe County's jurisdictions. As such, EPA's disapproval of the infrastructure SIP submittals for those elements that require states to have a SIP that includes a PSD permit program, including CAA sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J), is appropriate because EPA disapproved the state's submitted plan as not adequately addressing PSD program requirements. To conclude otherwise would be inconsistent with the long-standing and current disapproval of the SIP for PSD for the applicable areas, with the statutory foundation upon which the PSD FIP is authorized, and with the obligation under section 110(a) for each state to

[4] 80 FR 28893, May 20, 2015.

[5] ''Technical Support Document Evaluation of the Nevada Infrastructure SIP for 2008 Ozone, 2010 NO_2 and 2010 SO_2'' May 2015; ''Nevada Pb Infrastructure SIP Technical Support Document, September 13, 2012; Technical Support Document: EPA Evaluation of Nevada Provisions for 1997 Ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS for Section 110(a)(2)(A) through (C), D((i)(II) and (D)(ii), E(i) and (E(iii), (F) through (M), July 2012; and Technical Support Document: EPA Evaluation of NV Provisions for Section 110 (a)(2)(E)(ii)/Section 128 Conflict of Interest Requirements, July 2012.

[6] *See* document number EPA–R09–OAR–2015–0812–0074, 0076 and 0077 at *http://www.regulations.gov* under docket ID number EPA–R09–OAR–2014–0812.

[7] 77 FR 64737 (October 23, 2012) Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Nevada; Infrastructure Requirements for Ozone and Fine Particulate Matter.

[8] 77 FR 64737, October 23, 2012; 79 FR 15697, March 21, 2014.

[9] 40 CFR 52.02(b).

[10] 39 FR 42510, December 5, 1974.

[11] 40 FR 25004, June 12, 1975, adding 40 CFR 52.1485 to Subpart DD—Nevada.

[12] 43 FR 26380, June 19, 1978 and 45 FR 52676, August 7, 1980.

adopt and submit a plan for implementation, maintenance, and enforcement of the NAAQS that includes a PSD program. EPA's delegation of the PSD FIP is not the same as state adoption and submittal of state or district rules meeting PSD requirements and EPA's approval thereof.

NDEP Comment 2: NDEP requested clarification regarding EPA's ''proposed partial disapproval,'' at 80 FR 28898, column 3, ''of the interstate pollution transport portion'' of section 110(a)(2)(D)(i)(II) *i.e.* prongs 1 and 2. The commenter noted that EPA has proposed approval of the transport analysis submitted for nitrogen dioxide, yet proposed no action on the transport analysis for ozone and sulfur dioxide.

Response: In section IV.A. *Proposed Approvals and Partial Approvals* of our proposal notice we accidentally identified prongs 1–2 as being under section 110(a)(2)(D)(i)(II), when in fact prongs 1–2 are sub-elements of section 110(a)(2)(D)(i)(I). However, a proposed partial approval, partial disapproval for section 110(a)(2)(D)(i)(II) is correct as this sub-element relates to prongs 3 and 4 of section 110(a)(2)(D)(i). As our analysis makes clear in the TSD on pp. 21–22, EPA proposed a partial approval, partial disapproval for prong 3 under section 110(a)(2)(D)(i)(II) because NDEP and Washoe County do not have SIP approved PSD programs. However, we acknowledge NDEP's point that we proposed approval for prongs 1–2 for NO_2, and proposed no action on 2008 ozone or 2010 SO_2 under section 110(a)(2)(D)(i)(I). We thank NDEP for identifying this typographical error, and we have clarified it in the final rulemaking.

C. Sierra Club/Earthjustice Comments

Sierra Club/Earthjustice Comment 1: Sierra Club/Earthjustice asserted that the plain language of section 110(a)(2)(A) of the CAA, and EPA regulations, at 40 CFR 51.112, requires that SIPs contain emissions limits adequate to prohibit NAAQS exceedances in areas not designated nonattainment. The legislative history of the CAA, case law, EPA regulations such as 40 CFR 51.112(a), and EPA interpretations in rulemakings require the inclusion of enforceable emission limits in an infrastructure SIP to prevent NAAQS exceedances in areas not designated nonattainment. The commenter argued that the Nevada 2008 ozone infrastructure SIP submittal did not revise the existing ozone emission limits in response to the 2008 ozone NAAQS and failed to comport with asserted CAA requirements for SIPs to establish enforceable emission limits that are adequate to prohibit NAAQS exceedances in areas not designated nonattainment.

The commenter believed that the main objective of the infrastructure SIP process ''is to ensure that all areas of the country meet the NAAQS,'' and that nonattainment areas are addressed through nonattainment SIPs. The commenter maintained the NAAQS are the foundation for specific emission limitations for most large stationary sources, such as coal-fired power plants. The commenter stated its belief that, pursuant to section 107(a), the states have primary responsibility to maintain air quality through the controls and programs contained in the state's infrastructure SIPs as required by section 110(a)(2). The commenter also argued that, on its face, the CAA requires infrastructure SIPs ''to be adequate to prevent exceedances of the NAAQS,'' as provided in section 110(a)(1), which requires states to adopt a plan for implementation, maintenance, and enforcement of the NAAQS, and the language in section 110(a)(2)(A), which requires SIPs to include enforceable emissions limitations necessary to meet the requirements of the CAA and which the commenter claimed also should include the maintenance plan requirement. The commenter maintained the CAA definition of emission limit, when combined with the provisions stated above, requires ''enforceable emission limits on source emissions sufficient to ensure maintenance of the NAAQS.''

Response: EPA disagrees that section 110 is clear ''on its face'' and must be interpreted in the manner suggested by Sierra Club/Earthjustice. As we have previously explained in response to the commenter's similar comments on Virginia's SO_2 infrastructure SIP, section 110 is only one provision that is part of a complex structure governing implementation of the NAAQS program under the CAA, and it must be interpreted in the context of not only that structure, but in the context of the historical evolution of the Act.[13]

EPA interprets infrastructure SIPs as more general planning SIPs, consistent with the CAA as understood in light of its history and structure. When Congress enacted the CAA in 1970, it did not include provisions requiring states and the EPA to label areas as attainment or nonattainment. Rather, states were required to include all areas of the state in ''air quality control regions'' (AQCRs) and section 110 set forth the core substantive planning provisions for these AQCRs. At that time, Congress anticipated that states would be able to address air pollution quickly pursuant to the very general planning provisions in section 110 and could bring all areas into compliance with a new NAAQS within five years. Section 110(a)(2)(A)(i) specified that the section 110 plan provide for ''attainment'' of the NAAQS and section 110(a)(2)(B) specified that the plan must include ''emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance [of the NAAQS].''

In 1977, Congress recognized that the existing structure was not sufficient and many areas were still violating the NAAQS. At that time, Congress for the first time added provisions requiring states and EPA to identify whether areas of a state were violating the NAAQS (*i.e.,* were nonattainment) or were meeting the NAAQS (*i.e.,* were attainment) and established specific planning requirements in section 172 for areas not meeting the NAAQS. In 1990, many areas still had air quality not meeting the NAAQS and Congress again amended the CAA and added yet another layer of more prescriptive planning requirements for each of the NAAQS. At that same time, Congress modified section 110 to remove references to the section 110 SIP providing for attainment, including removing pre-existing section 110(a)(2)(A) in its entirety and renumbering subparagraph (B) as section 110(a)(2)(A). Additionally, Congress replaced the clause ''as may be necessary to insure attainment and maintenance [of the NAAQS]'' with ''as may be necessary or appropriate to meet the applicable requirements of this chapter.'' Thus, the CAA has significantly evolved in the more than 40 years since it was originally enacted. While at one time section 110 of the CAA did provide the only detailed SIP planning provisions for states and specified that such plans must provide for attainment of the NAAQS, under the structure of the current CAA, section 110 is only the initial stepping-stone in the planning process for a specific NAAQS. More detailed, later-enacted provisions govern the substantive

[13] See Air Quality State Implementation Plans; Approvals and Promulgations: Virginia; Infrastructure Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standards, 79 FR 17043 (March 27, 2014); Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Infrastructure Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standards, 79 FR 62022 (October 16, 2014); and Final Approval of Illinois Infrastructure SIP Requirements for the 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS, 79 FR 62042 (October 16, 2014).

planning process, including planning for attainment of the NAAQS.

Thus, EPA asserts that section 110 of the CAA is only one provision that is part of the complicated structure governing implementation of the NAAQS program under the CAA, as amended in 1990, and it must be interpreted in the context of that structure and the historical evolution of that structure. In light of the revisions to section 110 since 1970 and the later-promulgated and more specific planning requirements of the CAA, EPA reasonably interprets the requirement in section 110(a)(2)(A) of the CAA that the plan provide for ''implementation, maintenance and enforcement'' to mean that the SIP must contain enforceable emission limits that will aid in attaining and/or maintaining the NAAQS. EPA has interpreted the requirement for emission limitations in section 110 to mean that the state may rely on measures already in place to address the pollutant at issue or any new control measures that the state may choose to submit. Finally, as EPA stated in the Infrastructure SIP Guidance which specifically provides guidance to states in addressing the 2010 SO_2 NAAQS, ''[t]he conceptual purpose of an infrastructure SIP submission is to assure that the air agency's SIP contains the necessary structural requirements for the new or revised NAAQS, whether by establishing that the SIP already contains the necessary provisions, by making a substantive SIP revision to update the SIP, or both.'' [14] [15]

EPA addressed the adequacy of Nevada's infrastructure SIP for section 110(a)(2)(A) purposes in the TSD accompanying the May 20, 2014 Notice of Proposed Rulemaking and explained that the SIP includes enforceable emission limitations and other control measures ''necessary or appropriate to meet the requirements of this chapter.'' [16] These include permit requirements for major sources in attainment and nonattainment areas and general permits for minor stationary sources.[17] As discussed in the TSD for this rulemaking, EPA finds the provisions for ozone emission limitations and measures adequately address section 110(a)(2)(A) to aid in attaining and/or maintaining the NAAQS and finds that the Clark County portion of the Nevada SIP has demonstrated it has the necessary tools to implement and enforce the NAAQS.

Sierra Club/Earthjustice Comment 2: The commenter claimed that two excerpts from the legislative history of the 1970 CAA support an interpretation that SIP revisions under CAA section 110 must include emissions limitations sufficient to show maintenance of the NAAQS in all areas of Nevada. The commenter also claimed that the legislative history of the CAA supports the interpretation that infrastructure SIPs under section 110(a)(2) must include enforceable emission limitations, citing the Senate Committee Report and the subsequent Senate Conference Report accompanying the 1970 CAA.

Response: EPA disagrees with the commenters claim. As provided in the previous response (Section C, response to *Sierra Club/Earthjustice Comment 1*), the CAA, as enacted in 1970, including its legislative history, cannot be interpreted in isolation from the later amendments that refined that structure and deleted relevant language from section 110 concerning demonstrating attainment. In any event, the two excerpts of legislative history the commenter cites provide that states should include enforceable emission limits in their SIPs. As provided in the response to *Sierra Club/Earthjustice Comment 6* below, the TSD for the proposed rule explains why the Nevada SIP includes enforceable emissions limitations for ozone for the relevant area.

Sierra Club/Earthjustice Comment 3: The commenter referenced two prior EPA rulemaking actions where EPA disapproved or proposed to disapprove SIPs and claimed they were actions in which EPA relied on section 110(a)(2)(A) and 40 CFR 51.112 to reject infrastructure SIPs. The commenter directed attention to a 2006 partial approval and partial disapproval of revisions to Missouri's existing plan addressing the SO_2 NAAQS. In that action, EPA relied on section 110(a)(2)(A) for disapproving an emission limit revision on the basis that the State failed to demonstrate the SIP revision was sufficient to ensure maintenance of the SO_2 NAAQS; EPA cited to 40 CFR 51.112 as requiring that a plan demonstrates the rules in a SIP are adequate to attain the NAAQS. Second, the commenter cited a 2013 disapproval of a revision to the SO_2 SIP for Indiana, where the revision removed an emission limit that applied to a specific emissions source at a facility in the State. See 78 FR 17157, 17158, (March 20, 2013) (proposed rule on Indiana SO_2 SIP) and 78 FR 78720, 78721 (December 27, 2013) (final rule on Indiana SO_2 SIP). The commenter believed that in the proposed disapproval, EPA relied on 40 CFR 51.112(a) in proposing to reject the revision, stating that the State had not demonstrated that the emission limit was ''redundant, unnecessary, or that its removal would not result in or allow an increase in actual SO_2 emissions.'' The commenter contended that EPA stated in that proposed disapproval that the State had not demonstrated that removal of the limit would not ''affect the validity of the emission rates used in the existing attainment demonstration'' and asserted that outside of startup, shutdown, and malfunction requirements, EPA's 2013 I–SIP guidance did not discuss postponement of any I–SIP requirements.

Response: EPA does not agree that the two prior actions referenced by Sierra Club/Earthjustice establish how EPA reviews infrastructure SIPs. It is clear from both the final Missouri rule and the proposed and final Indiana rule that EPA was not reviewing initial infrastructure SIP submissions under section 110 of the CAA, but rather reviewing revisions that would make an already approved SIP designed to demonstrate attainment of the NAAQS less stringent. EPA's partial approval and partial disapproval of revisions to restrictions on emissions of sulfur compounds for the Missouri SIP in 71 FR 12623 addressed a control strategy SIP and not an infrastructure SIP. The Indiana action provides even less support for the commenter's position. 78 FR 78720. The review in that rule was of a completely different requirement than the section 110(a)(2)(A) SIP. Rather, in that case, the State had an approved SO_2 attainment plan and was seeking to remove provisions from the SIP that it relied on as part of the modeled attainment demonstration. EPA proposed that the State had failed to demonstrate under

[14] See pages 1 and 2 of Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2), September 2013.

[15] Thus, EPA disagrees with Sierra Club's general assertion that the main objective of infrastructure SIPs is to ensure all areas of the country meet the NAAQS, as we believe the infrastructure SIP process is the opportunity to review the structural requirements of a state's air program. EPA, however, does agree with Sierra Club that the NAAQS are the foundation upon which emission limitations are set, but we believe, as explained in responses to other comments, that these emission limitations are generally set in the attainment planning process envisioned by part D of title I of the CAA, including, but not limited to, CAA sections 172 and 191–192.

[16] The TSD for this action (''Technical Support Document Evaluation of the Nevada Infrastructure SIP for 2008 Ozone, 2010 NO_2 and 2010 SO_2'' May 2015) is available online at *www.regulations.gov,* Docket ID Number EPA–R09–OAR–2014–0812–0038.

[17] See Table 3 of ''Technical Support Document Evaluation of the Nevada Infrastructure SIP for 2008 Ozone, 2010 NO_2 and 2010 SO_2'' May 2015.

section 110(l) of the CAA why the SIP revision would not result in increased SO_2 emissions and thus interfere with attainment of the NAAQS. See 78 FR 17157. Nothing in that proposed or final rulemaking addresses the necessary content of the initial infrastructure SIP for a new or revised NAAQS. Rather, it is simply applying the clear statutory requirement that a state must demonstrate why a revision to an approved attainment plan will not interfere with attainment of the NAAQS. The commenter includes a footnote explaining that EPA's infrastructure SIP guidance inappropriately postpones start-up, shutdown, and malfunction (SSM) requirements, offering no support for departing from the plain text of EPA's regulations and past practices.

The guidance states, ''two elements that could not be governed by the 3-year submission deadline of section 110(a)(1) . . . the following elements are considered by the EPA to be outside the scope of infrastructure SIP actions: (1) Section 110(a)(2)(C) to the extent that it refers to permit programs (known as ''nonattainment new source review'') under part D; and (2) section 110(a)(2)(I) in its entirety, which addresses SIP revisions for nonattainment areas. Both these elements pertain to SIP revisions that collectively are referred to as a nonattainment SIP or an attainment plan, which would be due by the dates statutorily prescribed under subparts 2 through 5 under part D, extending as far as 10 years following area designations for some elements. Because the CAA directs states to submit these plan elements on a separate schedule, the EPA does not believe it is necessary for states to include these elements in the infrastructure SIP submission due 3 years after adoption or revision of a NAAQS.''

As discussed in detail in the TSD and NPR, EPA finds the Nevada SIP meets the appropriate and relevant structural requirements of section 110(a)(2) of the CAA that will aid in attaining and/or maintaining the NAAQS and that the State demonstrated that it has the necessary tools to implement and enforce a NAAQS.[18]

Sierra Club/Earthjustice Comment 4: The commenter discussed several cases applying the CAA which they claimed support their contention that courts have been clear that section 110(a)(2)(A) requires enforceable emissions limits in infrastructure SIPs to prevent exceedances of the NAAQS. The commenter cited to language in *Train* v. *NRDC,* 421 U.S. 60, 78 (1975), addressing the requirement for ''emission limitations'' and stating that emission limitations ''are specific rules to which operators of pollution sources are subject, and which, if enforced, should result in ambient air which meet the national standards.'' The commenter also cited to *Pennsylvania Dept. of Envtl. Resources* v. *EPA,* 932 F.2d 269, 272 (3d Cir. 1991) for the proposition that the CAA directs EPA to withhold approval of a SIP where it does not ensure maintenance of the NAAQS, and to *Mision Industrial, Inc.* v. *EPA,* 547 F.2d 123, 129 (1st Cir. 1976), which quoted section 110(a)(2)(B) of the CAA of 1970. The commenter contends that the 1990 Amendments do not alter how courts have interpreted the requirements of section 110, quoting *Alaska Dept. of Envtl. Conservation* v. *EPA,* 540 U.S. 461, 470 (2004), which in turn quoted section 110(a)(2)(A) of the CAA and also stated that ''SIPs must include certain measures Congress specified'' to ensure attainment of the NAAQS. The commenter also quotes several additional opinions that purportedly stand for similar propositions: *Mont. Sulphur & Chem. Co.* v. *EPA,* 666 F.3d 1174, 1180 (9th Cir. 2012) (''The Clean Air Act directs states to develop implementation plans—SIPs—that 'assure' attainment and maintenance of [NAAQS] through enforceable emissions limitations''); *Hall* v. *EPA,* 273 F.3d 1146, 1153 (9th Cir. 2001) (''Each State must submit a [SIP] that specif[ies] the manner in which [NAAQS] will be achieved and maintained within each air quality control region in the State''); *Conn. Fund for Env't, Inc.* v. *EPA,* 696 F.2d 169, 172 (D.C. Cir. 1982) (CAA requires SIPs to contain ''measures necessary to ensure attainment and maintenance of NAAQS''); *Mich. Dept. of Envtl. Quality* v. *Browner,* 230 F.3d 181 (6th Cir. 2000) (EPA may not approve a SIP revision that does not demonstrate how the rules would not interfere with attainment and maintenance of the NAAQS). The commenter also cites *Comm. For a Better Arvin* v. *EPA,* No.11–73924, at*3–4 (9th Cir. May 20, 2015) as supporting their contention that the plain language of section 110(a)(2)(A) requires infrastructure SIPs to include enforceable emissions limits on sources sufficient to ensure maintenance of the NAAQS.

Response: The EPA disagrees with this comment. None of the cited cases hold that section 110(a)(2)(A) unambiguously requires infrastructure SIPs to include detailed plans providing for attainment and maintenance of the NAAQS in all areas of the state, nor do they shed light on how section 110(a)(2)(A) may reasonably be interpreted. With the exception of *Train,* none of the cases the commenter cites concerned the interpretation of CAA section 110(a)(2)(A) (or section 110(a)(2)(B) of the pre-1990 Act). Rather, the courts reference section 110(a)(2)(A) (or section 110(a)(2)(B) of the pre-1990 CAA) in the background sections of decisions in the context of either (1) a challenge to an EPA action on *revisions* to a SIP that were required and approved as meeting other provisions of the CAA, or (2) an enforcement action.

In *Train,* 421 U.S. 60, the Court was addressing a state revision to an attainment plan submission made pursuant to section 110 of the CAA, the sole statutory provision at that time regulating such submissions. The issue in that case concerned whether changes to requirements occurring before attainment deadlines were variances (which would be addressed pursuant to the provision governing SIP revisions) or ''postponements'' (which would have to meet the prescriptive criteria of section 110(f) of the CAA of 1970). The Court concluded that EPA reasonably interpreted section 110(f) not to restrict a state's choice of the mix of control measures needed to attain the NAAQS and that revisions to SIPs that would not impact attainment of the NAAQS by the attainment date were not subject to the limits of section 110(f). The issue was not whether a section 110 SIP must provide for attainment or whether emissions limits are needed as part of the SIP; rather the issue was which statutory provision governed when the state wanted to revise the emission limits in its SIP if such revision would not impact attainment or maintenance of the NAAQS. To the extent the holding in the case has any bearing on how section 110(a)(2)(A) might be interpreted, it is important to realize that in 1975, when the opinion was issued, section 110(a)(2)(B) (the predecessor to section 110(a)(2)(A)) expressly referenced the requirement to attain the NAAQS, a reference that was removed in 1990.

The decision in *Pennsylvania Dept. of Envtl. Resources* was also decided based on the pre-1990 provision of the CAA. At issue was whether EPA properly rejected a revision to an approved plan where the inventories relied on by the state for the updated submission had gaps. The Court quoted section 110(a)(2)(B) of the pre-1990 CAA in support of EPA's disapproval, but did not provide any interpretation of that provision. Yet, even if the Court had interpreted that provision, EPA notes

[18] EPA will take a separate action on CAA (a)(2)(D)(i)(I) Nevada ozone infrastructure SIP (*i.e.* the Good Neighbor SIP provisions).

that it was modified by Congress in 1990; thus, this decision has little bearing on the issue here.

At issue in *Mision Industrial,* 547 F.2d 123, was the definition of ''emissions limitation,'' not whether section 110 requires the state to demonstrate how all areas of the state will attain and maintain the NAAQS as part of their infrastructure SIPs. The language from the opinion the commenter quotes does not interpret but rather merely describes section 110(a)(2)(A). Sierra Club/Earthjustice does not raise any concerns about whether the measures relied on by the Commonwealth in the infrastructure SIP are ''emissions limitations'' and the decision in this case has no bearing here.

In *Mont. Sulphur & Chem. Co.,* 666 F.3d 1174, the Court was reviewing a federal implementation plan (FIP) that EPA promulgated after a long history of the state failing to submit an adequate SIP in response to EPA's finding under section 110(k)(5) that the previously approved SIP was substantially inadequate to attain or maintain the NAAQS, which triggered the state's duty to submit a new SIP to show how it would remedy that deficiency and attain the NAAQS. The Court cited generally to sections 107 and 110(a)(2)(A) of the CAA for the proposition that SIPs should assure attainment and maintenance of NAAQS through emission limitations, but this language was not part of the Court's holding in the case, which focused instead on whether EPA's finding of SIP inadequacy, disapproval of the state's responsive attainment demonstration, and adoption of a remedial FIP were lawful. The commenter suggests that *Alaska Dept. of Envtl. Conservation,* 540 U.S. 461, stands for the proposition that the 1990 CAA Amendments do not alter how courts interpret section 110. This claim is inaccurate. Rather, the Court quoted section 110(a)(2)(A), which, as noted previously, differs from the pre-1990 version of that provision and the court makes no mention of the changed language. Furthermore, Sierra Club/Earthjustice also quotes the Court's statement that ''SIPs must include certain measures Congress specified,'' but that statement specifically referenced the requirement in section 110(a)(2)(C), which requires an enforcement program and a program for the regulation of the modification and construction of new sources. Notably, at issue in that case was the state's ''new source'' permitting program, not its infrastructure SIP.

Two of the cases Sierra Club/Earthjustice cites, *Mich. Dept. of Envtl. Quality,* 230 F.3d 181, and *Hall,* 273 F.3d 1146, interpret CAA section 110(l), the provision governing ''revisions'' to plans, and not the initial plan submission requirement under section 110(a)(2) for a new or revised NAAQS, such as the infrastructure SIP at issue in this instance. In those cases, the courts cited to section 110(a)(2)(A) solely for the purpose of providing a brief background of the CAA.

In *Conn. Fund for Env't, Inc.* v. *EPA,* the Second Circuit was reviewing EPA action on a control measure SIP provision that adjusted the percent of sulfur permissible in fuel oil. 696 F.2d 169 (2d. Cir. 1982). The Second Circuit denied a petition for review concerning whether EPA needed to evaluate effects of the SIP revision on one pollutant or effects of changes on all possible pollutants. The Second Circuit did not address required measures for infrastructure SIPs and nothing in the opinion addressed whether infrastructure SIPs needed to contain measures to ensure attainment and maintenance of the NAAQS. The court did note, however, that, ''the need for flexibility in the administration of the [CAA] . . . should not be underestimated,'' and highlighted the court's past practice of being ''careful to defer to EPA's choice of methods to carry out its 'difficult and complex job' as long as that choice is reasonable and consistent with the Act.'' *Id.* at 173–74 (quoting *Conn. Fund for the Env't* v. *EPA,* 672 F.2d 998, 1006 (2d Cir. 1982). Here, section 110(a)(2)(A) is reasonably interpreted to require states to submit SIPs that reflect the first step in their planning for attaining and maintaining a new or revised NAAQS and that they contain enforceable control measures and a demonstration that the state has the available tools and authority to develop and implement plans to attain and maintain the NAAQS.

Finally, in *Comm. for a Better Arvin* v. *EPA,* the Petitioner challenged California's plans to improve air quality in the San Joaquin Valley. At issue was whether EPA erred in approving the state's SIP to comply with the NAAQS under section 109 concerning ozone and fine particulate matter. The court held that by approving the state's plans, even though the plans did not include the state-adopted mobile emissions standards on which those plans rely to achieve their emissions reductions goals, EPA violated the CAA. However, the court found that EPA did not violate the CAA by not requiring inclusion of other state mechanisms in its plans, and that other control measures approved by EPA are enforceable commitments as the CAA requires. While the court cited to section 110(a)(2)(A) for the proposition that SIPs generally should assure attainment and maintenance of NAAQS through emission limitations, such language was not dispositive as to whether or not *infrastructure* SIPs specifically must include enforceable limits on sources sufficient to maintain the NAAQS. To the contrary, the CAA provides states and EPA with other tools to address concerns that arise with respect to purported violations of the NAAQS in a designated attainment area, such as the authority to redesignate areas pursuant to section 107(d)(3), the authority to issue a ''SIP Call'' pursuant to section 110(k)(5), or the general authority to approve SIP revisions that can address violations of the NAAQS through other appropriate measures.

Sierra Club/Earthjustice Comment 5: The commenter cited to 40 CFR 51.112(a), providing that ''[e]ach plan must demonstrate that the measures, rules and regulations contained in it are adequate to provide for the timely attainment and maintenance of the [NAAQS]'' and asserted that this regulation requires all SIPs to include emissions limits necessary to ensure attainment of the NAAQS. The commenter stated their belief that ''[a]lthough these regulations were developed before the Clean Air Act separated infrastructure SIPs from nonattainment SIPs—a process that began with the 1977 amendments and was completed by the 1990 amendments—the regulations apply to I–SIPs.'' Finally, the commenter stated that EPA has not changed the regulation since 1990, and that in the preamble to the final rule promulgating 40 CFR 51.112, EPA expressly identified that its new regulations were not implementing Subpart D. *See* Air Quality Implementation Plans; Restructuring SIP Preparation Regulations, 51 FR 40,656, 40,656 (Nov. 7, 1986) (''It is beyond the scope of th[is] rulemaking to address the provisions of Part D of the Act. . . .''). The commenter thus concludes that 40 CFR 51.112 was intended to apply to infrastructure SIPs.

Response: The commenter's reliance on 40 CFR 51.112 to support its argument that infrastructure SIPs must contain emission limits ''adequate to prohibit NAAQS exceedances'' and adequate or sufficient to ensure the maintenance of the NAAQS is not supported. As an initial matter, EPA notes and the commenter recognizes this regulatory provision was initially promulgated and ''restructured and consolidated'' prior to the CAA Amendments of 1990, in which Congress removed all references to ''attainment'' in section 110(a)(2)(A).

And, it is clear on its face that 40 CFR 51.112 applies to plans specifically designed to attain the NAAQS. EPA interprets these provisions to apply when states are developing ''control strategy'' SIPs such as the detailed attainment and maintenance plans required under other provisions of the CAA, as amended in 1977 and again in 1990, such as sections 175A and 191–192. The commenter suggests that these provisions must apply to section 110 SIPs because in the preamble to EPA's action ''restructuring and consolidating'' provisions in part 51, EPA stated that the new attainment demonstration provisions in the 1977 Amendments to the CAA were ''beyond the scope'' of the rulemaking. It is important to note, however, that EPA's action in 1986 was not to establish new substantive planning requirements, but rather was meant merely to consolidate and restructure provisions that had previously been promulgated. EPA noted that it had already issued guidance addressing the new ''Part D'' attainment planning obligations. Also, as to maintenance regulations, EPA expressly stated that it was not making any revisions other than to re-number those provisions. 51 FR 40657.

Although EPA was explicit that it was not establishing requirements interpreting the provisions of new ''Part D'' of the CAA, it is clear that the regulations being restructured and consolidated were intended to address control strategy plans. In the preamble, EPA clearly stated that 40 CFR 51.112 was replacing 40 CFR 51.13 (''Control strategy: SO_X and PM (portion)''), 51.14 (''Control strategy: CO, HC, O_X and NO_2 (portion)''), 51.80 (''Demonstration of attainment: Pb (portion)''), and 51.82 (''Air quality data (portion)''). Id. at 40660. Thus, the present-day 40 CFR 51.112 contains consolidated provisions that are focused on control strategy SIPs, and the infrastructure SIP is not such a plan.

Sierra Club/Earthjustice Comment 6: Citing section 110(a)(2)(A) of the CAA, the commenter contends that EPA failed to meaningfully evaluate whether the emissions limitations and other control measures are adequate to ensure attainment and maintenance of the NAAQS in EPA's proposed approval of the Clark County Infrastructure SIP. The commenter further contends that ''nearly all of the legal authorities . . . pertain only to new or additional sources . . . (and) would do nothing to reduce existing sources.''

Response: EPA believes that section 110(a)(2)(A) of the CAA is reasonably interpreted to require states to submit infrastructure SIPs that reflect the first step in their planning for attainment and maintenance of a new or revised NAAQS. These SIP revisions should contain a demonstration that the state has the available tools and authority to develop and implement plans to attain and maintain the NAAQS and show that the SIP has enforceable control measures. In light of the structure of the CAA, EPA's long-standing position regarding infrastructure SIPs is that they are general planning SIPs to ensure that the state has adequate resources and authority to implement a NAAQS in general throughout the state and not detailed attainment and maintenance plans for each individual area of the state. As mentioned above, EPA has interpreted this to mean, with regard to the requirement for emission limitations, that states may rely on measures already in place to address the pollutant at issue or any new control measures that the state may choose to submit.

As stated in response to *Sierra Club/Earthjustice's Comment 5,* section 110 of the CAA is merely one provision within the complex, post-1990 regulatory structure governing implementation of the NAAQS, and must be interpreted in the context of that regulatory structure as well as the Act's historical evolution. In light of the revisions to section 110 since 1970 and the later-promulgated and more specific planning requirements of the CAA, EPA reasonably interprets the requirement in section 110(a)(2)(A) of the CAA that the plan provide for ''implementation, maintenance and enforcement'' to mean that the SIP must contain enforceable emission limits that will aid in attaining and/or maintaining the NAAQS, and that the state demonstrate that it has the necessary tools to implement and enforce a NAAQS (*e.g.,* adequate state personnel and an enforcement program). As discussed above, EPA has interpreted the requirement for emission limitations in section 110 to mean that the state may rely on measures already in place to address the pollutant at issue or any new control measures that the state may choose to submit. Finally, as EPA stated in the Infrastructure SIP Guidance which specifically provides guidance to states in addressing the 2010 SO_2 NAAQS, ''[t]he conceptual purpose of an infrastructure SIP submission is to assure that the air agency's SIP contains the necessary structural requirements for the new or revised NAAQS, whether by establishing that the SIP already contains the necessary provisions, by making a substantive SIP revision to update the SIP, or both.'' [19]

EPA believes that the proper inquiry is whether Nevada, including Clark County, has met the basic structural SIP requirements appropriate at the point in time EPA is acting upon the infrastructure submittal. Emissions limitations and other control measures needed to attain the NAAQS in areas designated nonattainment for that NAAQS are due on a different schedule from the section 110 infrastructure elements. A state, like Nevada, may reference pre-existing SIP emission limits or other rules contained in part D plans for previous NAAQS in an infrastructure SIP submission. For example, NDEP and Clark County submitted a list of existing emission reduction measures in the SIP that control emissions of ozone, which are included in the discussion of Element A of the TSD supporting the NPRM. These provisions have the ability to reduce ozone overall. We mention both NDEP and Clark County because they both regulate facilities within Clark County. As mentioned in the TSD supporting the NPRM, NDEP has the sole authority to regulate facilities that generate energy from steam boilers burning fossil fuels. Fuel combustion is the second largest source of NO_X emissions (16%) after (primarily EPA regulated) mobile sources (82%). Some of the largest stationary source emitters of NO_X in Clark County, such as the Reid Gardner Generating Station, are regulated by NDEP.

While NO_X emissions are regulated at the federal, state and local level, the commenter specifically raised concerns with Clark County's legal authorities. EPA disagrees that Clark County legal authorities only pertain to new or additional sources. The County's permitting programs and regulatory controls also apply to existing facilities. We acknowledge that the Clark County portion of the ozone SIP submittal does not propose new regulations for the Nevada SIP that would reduce emissions from existing sources, such as those commonly included in an attainment SIP, but that does not mean that existing sources are not regulated at the state and local level.

EPA believes it is not appropriate to bypass the attainment planning process by imposing separate attainment planning process requirements outside the attainment planning process and into the infrastructure SIP process. Such

[19] Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2), September 2013 at page 2.

actions would be disruptive and premature absent exceptional circumstances and would interfere with a state's planning process. See *In the Matter of EME Homer City Generation LP and First Energy Generation Corp.,* Order on Petitions Numbers III–2012–06, III–2012–07, and III2013–01 (July 30, 2014) (hereafter, *Homer City/Mansfield* Order) at 10–19 (finding that the Pennsylvania SIP did not require imposition of SO_2 emission limits on sources independent of the part D attainment planning process contemplated by the CAA). EPA believes that the history of the CAA, and intent of Congress for the CAA as described above, demonstrate clearly that it is within the section 172 and general part D attainment planning process that Nevada must include additional limits on ozone precursor emissions in order to demonstrate future attainment, where needed, for any areas in Nevada or other states that may be designated nonattainment in the future, in order to reach attainment of the 2008 ozone NAAQS.

EPA does not agree with the commenter's reliance on 40 CFR 51.112 to support its argument that infrastructure SIPs must contain emission limits adequate to provide for timely attainment and maintenance of the standard. As explained previously in response to *Sierra Club/Earthjustice Comment 5,* EPA notes this regulatory provision clearly on its face applies to plans specifically designed to attain the NAAQS and not to infrastructure SIPs which show the states have in place structural requirements necessary to implement the NAAQS. Therefore, EPA finds 40 CFR 51.112 inapplicable to its analysis of the Nevada ozone infrastructure SIP.

Sierra Club/Earthjustice Comment 7: The commenter expressed concern that the design values for the Clark County air quality monitors exceeded the ozone NAAQS, yet the area remained designated attainment/unclassifiable. The commenter also referenced a Sierra Club petition, denied by EPA, to redesignate Clark County and other areas to nonattainment [20] and asserted that ''design values for monitors in Clark County have exceeded the 2008 0.075 ppm standard for every three-year period since 2001–2003 with the lone exception of 2009–2011.''

Response: EPA's decision not to redesignate the areas identified in the Sierra Club's petition involved many factors, which we discuss in the next paragraph, including: the role of the declining national NO_X and VOC emissions, particularly from mobile sources, which are primarily regulated by EPA; the limited planning requirements associated with marginal nonattainment areas; the development of collaborative strategies to bring newly violating areas back into compliance as soon as possible; and the fluctuation of ozone levels with varying weather conditions.[21] We will discuss the factors mentioned in EPA's response to the Sierra Club's redesignation petition (for 57 areas in the U.S.), specifically for Clark County.

Our response to Sierra Club's petition explained, ''emissions of NO_X in the U.S. are expected to decline by 29% from 2011 through 2018, even when accounting for increases in some sectors, such as the oil and gas industry.'' NO_X emissions from on-road mobile sources, locomotives, and non-road engines are expected to comprise more than 90% of the reductions. The air quality of Clark County stands to benefit even more than the rest of the country on a relative basis, because mobile sources represent 82% of NO_X sources within Clark County, but only 58% nationally.[22] Our letter also noted 10% declining VOC emissions from 2011 to 2018, nearly all of which resulted from on-road and off-road engine rules.[23]

For Clark County's remaining sources of NO_X emissions, nearly 18% of the total NO_X emissions for the 2011 Emissions Inventory, more than 33% (3,066 tons) were generated by a single facility, the Reid Gardner Generating Station,[24] though Clark County states this figure had dropped to 1,848 tons by 2013.[25] As we explained in the TSD for our proposed rulemaking, Reid Gardner retired three of four coal-fired boilers at the end of 2014. The fourth unit will be closed in 2017. Senate Bill 123, the Nevada law that required the early retirement of 557 megawatts (MW) of electrical generating capacity at Reid Gardner, allows for the replacement of these units with substantially cleaner burning natural gas-fired boilers (500–550 MW) and renewable generating capacity (150 MW). The cleaner burning facility at Reid Gardner should provide substantial air quality benefits for Clark County.

Clark County has joined EPA's voluntary Ozone Advance Program, a collaborative effort between EPA, states, tribes, and local governments. It encourages proactive efforts to improve air quality that could better position areas to stay in attainment. The docket for this rulemaking includes Clark County's 2014 and 2015 submittals for the program.[26] These documents acknowledge, as the comments note, increasing design values of the network monitoring system. The documents also discuss the use of grants from the (federal) Department of Transportation's Congestion, Mitigation and Air Quality Incentive Program, non-regulatory measures to improve air quality, and the previously mentioned reductions at the Reid Gardner Generating Station.

The commenter is correct in stating that Clark County's design value appears to have increased in the years following the county's designation as an attainment area (which had been based on 2009–2011 data forming the 2011 design value). However, as we have noted, NO_2 and VOC estimated emissions are declining within Clark County. Additionally, ozone is not dependent solely on the emission of precursors.[27] Variations in weather

[20] Petition to the Administrator of the U.S. Environmental Protection Agency to Redesignate as Nonattainment 57 Areas with 2012 Design Values Violating the 2008 8-Hour National Ambient Air Quality Standards for Ozone (Docket: EPA–HQ–OAR–2014–0563, and included in the docket for this rulemaking)

[21] In addition to the factors discussed above, EPA's response to the petition, a letter from Gina McCarthy to Seth Johnson, Sierra Club, dated August 14, 2014 (included in the docket for this rulemaking), also states that 22 of the 57 areas were again attaining the ozone NAAQS based on their 2013 design values.

[22] Nevada NO_X emissions by category (*e.g.* mobile sources, point sources) can be found at *http://www.epa.gov/cgi-bin/broker?_service=data&_debug=0&_program=dataprog.state_1.sas&pol=NOX&stfips=32.*

[23] EPA's August 14, 2014 letter to the Sierra Club also discussed increases in NO_X and VOC emissions from the oil and gas sector but did not discuss the impact of biogenic VOC emissions, which are likely to remain constant. (EPA's letter is available in the docket for EPA–HQ–OAR–2014–0563 at *http://www.regulations.gov/.*)

[24] Based on an emissions query of EPA's Air Markets Division Database (for the year 2011) at *http://ampd.epa.gov/ampd/,* accessed on July 15, 2015.

[25] Clark County Ozone Advance Submission, submitted to Ms. Laura Bunte, from Lewis Wallenmeyer, Director, Clark County Department of Air Quality, at pp. 2–4, June 23, 2014, available in the docket for this rulemaking.

[26] (1) Clark County Department of Air Quality, Ozone Advance Program, Path Forward, June 2014 and (2) Clark County Department of Air Quality, Ozone Advance Program, Progress Report, June 2015.

[27] EPA notes that two monitors identified by the commenter (Spring Mountain Youth Camp monitor (AQS ID 32–003–7771) and Las Vegas Paiute Tribal monitor (AQS ID 32–003–8000)) are considered non-regulatory and not comparable to the NAAQS. The Spring Mountain monitor is not operated per FEM specifications and cannot be considered a State/Local Air Monitoring Station and therefore, the collected data, while usable for research purposes, is not comparable to the NAAQS. Similarly, The Las Vegas Paiute Tribal monitor is designated as non-regulatory monitor operated for informational purposes only.

conditions play an important role in determining ozone levels and thus design values can fluctuate from year to year, which EPA also noted in our response to the Sierra Club's petition for redesignation. Recent EPA modeling, which included Clark County, estimated a 2017 Clark County ozone maximum design value of 72.8 parts per billion (or 0.0728 parts per million (ppm)), below the 2008 ozone NAAQS of 0.075 ppm.[28]

III. Final Action

Under CAA section 110(k)(3), and based on the evaluation and rationale presented in the proposed rule, the related TSDs, and this final rule, EPA is approving in part and disapproving in part Nevada's Infrastructure Submittal for the 2008 Ozone, 2010 NO_2 and 2010 SO_2 NAAQS. We are also taking final action on other regulatory changes discussed in our proposed rule. In the following subsections, we list the elements for which we are finalizing Infrastructure SIP approval or disapproval and provide a summary of the basis for those elements that are partially disapproved. We also describe the consequences of our disapprovals and discuss finalizing the other regulatory changes in our proposed rule.

A. Summary of Infrastructure SIP Approvals and Partial Approvals

EPA is approving Nevada's Infrastructure SIP for the 2008 Ozone, 2010 NO_2 and 2010 SO_2 NAAQS with respect to the following requirements:

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new stationary sources (full approval for Clark County).
- 110(a)(2)(D) (in part, see below): Interstate Pollution Transport.
- 110(a)(2)(D)(i)(I) (in part)—significant contribution to nonattainment, or prongs 1 and 2 (full approval of NDEP, Clark County and Washoe County for the NO_2 NAAQS).
- 110(a)(2)(D)(i)(II) (in part)—interstate transport—prevention of significant deterioration, or prong 3 (full approval for Clark County).
- 110(a)(2)(D)(i)(II) (full approval)—visibility transport, or prong 4.
- 110(a)(2)(D)(ii) (in part)—interstate pollution abatement and international air pollution (full approval for Clark County).
- 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local governments and regional agencies.
- 110(a)(2)(F): Stationary source monitoring and reporting.
- 110(a)(2)(G): Emergency episodes.
- 110(a)(2)(H): SIP revisions.
- 110(a)(2)(J) (in part): Consultation with government officials, public notification, and prevention of significant deterioration (PSD) and visibility protection (full approval for Clark County).
- 110(a)(2)(K): Air quality modeling and submission of modeling data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

EPA is taking no action on Interstate Transport—significant contribution to nonattainment for NDEP, Clark County and Washoe County on the Ozone and SO_2 NAAQS [Section 110(a)(2)(D)(i)(II)].

B. Summary of Infrastructure SIP Partial Disapprovals

EPA is disapproving Nevada's Infrastructure Submittal with respect to the following infrastructure SIP requirements:

- 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new and modified stationary sources (disapproved for all NAAQS addressed by this rule and covered by the NDEP and Washoe County PSD permitting programs).
- 110(a)(2)(D) (in part, see below): Interstate Pollution Transport.
- 110(a)(2)(D)(i)(II) (in part): interstate transport—prevention of significant deterioration, or prong 3 (disapproval for all NAAQS addressed by this rule and covered by the NDEP and Washoe County PSD permitting programs).
- 110(a)(2)(D)(ii) (in part)—interstate pollution abatement and international air pollution (disapproved for all NAAQS addressed by this rule and covered by the NDEP and Washoe County PSD permitting programs).
- 110(a)(2)(J) (in part): Consultation with government officials, public notification, PSD, and visibility protection (disapproval for all NAAQS addressed by this rule and covered by the NDEP and Washoe County PSD permitting programs).

As explained in our proposed rule, TSD, and section II of this final rule, we are disapproving Nevada's Infrastructure Submittal for the NDEP and Washoe County portions of the SIP with respect to the PSD-related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), and 110(a)(2)(J) because the Nevada SIP does not fully satisfy the statutory and regulatory requirements for PSD permit programs under part C, title I of the Act. Both NDEP and Washoe County implement the Federal PSD program in 40 CFR 52.21 for all regulated new source review (NSR) pollutants, pursuant to delegation agreements with EPA.[29] Accordingly, although the Nevada SIP remains deficient with respect to PSD requirements in both the NDEP and Washoe County portions of the SIP, these deficiencies are adequately addressed in both areas by the federal PSD program.

C. Consequences of Partial Disapprovals

EPA takes disapproval of a state plan seriously. We believe that it is preferable, and preferred in the provisions of the Clean Air Act, that these requirements be implemented through state plans. A state plan need not contain exactly the same provisions that EPA might require, but EPA must be able to find that the state plan is consistent with the requirements of the Act in accordance with its obligations under section 110(k). Further, EPA's oversight role requires that it assure consistent implementation of Clean Air Act requirements by states across the country, even while acknowledging that individual decisions from source to source or state to state may not have identical outcomes. EPA believes these disapprovals are the only path that is consistent with the Act at this time.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of part D of title I of the CAA (CAA sections 171–193) or is required in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (SIP Call) starts a sanctions clock. Nevada's Infrastructure SIP Submittals were not submitted to meet either of these requirements. Therefore, our partial disapproval of Nevada's Infrastructure Submittals does not trigger mandatory sanctions under CAA section 179.

In addition, CAA section 110(c)(1) provides that EPA must promulgate a FIP within two years after finding that a state has failed to make a required submission or disapproving a SIP submission in whole or in part, unless EPA approves a SIP revision correcting the deficiencies within that two-year period. As discussed in section III.B of this final rule and in our TSD, we are finalizing several partial disapprovals. These disapprovals do not result in new FIP obligations, because EPA has already promulgated FIPs to address the identified deficiencies.

[28] 80 FR 46271 (August 4, 2015) also at *http://www.epa.gov/airtransport/ozonetransport NAAQS.html,* Design Values listed in Ozone Design Values_Transport NODA.xlsx.

[29] 40 CFR 52.1485.

D. Summary of Other Regulatory Actions

EPA is finalizing the other regulatory actions discussed in the proposed rule: Defining the term Nevada Intrastate Air Quality Control Region; reclassifying the Nevada Intrastate and Las Vegas Intrastate Air Quality Control Regions from priority IA to priority III for emergency episodes; removing historic language from the Nevada SIP, which refers to a facility no longer in existence.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* because this partial approval and partial disapproval of SIP revisions under CAA section 110 will not in-and-of itself create any new information collection burdens but simply approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This partial SIP approval and partial SIP disapproval under CAA section 110 will not in-and-of itself create any new requirements but simply approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. EPA has determined that the partial approval and partial disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This action approves certain pre-existing requirements, and disapproves certain other pre-existing requirements, under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA 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.'' ''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 action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. In addition, 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 and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This partial approval and partial disapproval under CAA section 110 will not in-and-of itself create any new regulations but simply approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its 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. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

EPA believes that this action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order (EO) 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this rulemaking.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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). This rule will be effective on December 3, 2015.

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *January 4, 2016.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, air pollution control, incorporation by reference, Nevada Intrastate Air Quality Control Region.

Dated: September 30, 2015.

Jared Blumenfeld,

Regional Administrator, Region 9.

Therefore, 40 CFR Chapter I 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 DD—Nevada

■ 2. In § 52.1470, paragraph (e), the table is amended by adding four entries after the entry for ''Small Business Stationary Source Technical and Environmental Compliance Assistance Program'' to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NEVADA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Explanation
Air Quality Implementation Plan for the State of Nevada				
* *	* *	*	* *	*
Nevada's Clean Air Act § 110(a)(1) and (2) State Implementation Plan for the 2008 ozone NAAQS, excluding appendices A–F for NDEP; excluding the cover letter to NDEP and attachments A and B for Clark County; and excluding the cover letter to NDEP and Attachments A and B for Washoe County.	State-wide	12/20/2012	[Insert **Federal Register** citation] 11/3/2015.	''Infrastructure'' SIP for NDEP, Clark County and Washoe County for the 2008 8-hour ozone standard.

EPA-APPROVED NEVADA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Explanation
Nevada's Clean Air Act §110(a)(1) and (2) State Implementation Plan for the 2010 nitrogen dioxide NAAQS, excluding appendices A–G for NDEP; excluding the cover letter to NDEP and attachments A–C for Clark County; and excluding the cover letter to NDEP, Washoe County portion of Nevada's State Implementation Plan for the 2010 nitrogen dioxide NAAQS, and attachments A and B for Washoe County.	NDEP jurisdiction and Clark County.	1/18/2013	[Insert **Federal Register** citation] 11/3/2015.	"Infrastructure" SIP for NDEP and Clark County for the 2010 1-hour nitrogen dioxide standard.
Washoe County Portion of Nevada's Clean Air Act §110(a)(1) and (2) State Implementation Plan for the 2010 nitrogen dioxide NAAQS, excluding cover letter to NDEP and attachments A–B.	Washoe County	3/15/2013	[Insert **Federal Register** citation] 11/3/2015.	"Infrastructure" SIP for Washoe County for the 2010 1-hour nitrogen dioxide standard.
Nevada's Clean Air Act §110(a)(1) and (2) State Implementation Plan for the 2010 sulfur dioxide NAAQS, excluding the cover letter and appendices A–E for NDEP; excluding the cover letter to NDEP and attachments A–C for Clark County; and excluding the cover letter to NDEP, attachments A–C, and public notice information for Washoe County.	State-wide	6/3/2013	[Insert **Federal Register** citation] 11/3/2015.	"Infrastructure" SIP for NDEP, Clark County and Washoe County for the 2010 1-hour sulfur dioxide standard.
*	*	*	*	*	*	*

■ 3. Section 52.1471 is revised to read as follows:

§ 52.1471 Classification of regions.

The Nevada plan is evaluated on the basis of the following classifications:

Air quality control region	Pollutant				
	Particulate matter	Sulfur oxides	Nitrogen dioxide	Carbon monoxide	Ozone
Las Vegas Intrastate	I	III	III	I	I
Northwest Nevada Intrastate	I	III	III	III	III
Nevada Intrastate	IA	III	III	III	III

■ 4. Section 52.1472 is amended by adding paragraphs (h),(i) and (j) to read as follows:

§ 52.1472 Approval status.

* * * * *

(h) *2008 8-hour ozone NAAQS:* The SIPs submitted on December 20, 2012 are partially disapproved for CAA elements 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J) for the NDEP and Washoe County portions of the Nevada SIP; no action is taken for CAA element 110(a)(2)(D)(i)(I).

(i) *2008 1-hour nitrogen dioxide NAAQS:* The SIPs submitted on January 18, 2013 are partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J) for the Nevada Division of Environmental Quality (NDEP) and Washoe County portions of the Nevada SIP.

(j) *2008 2010 1-hour sulfur dioxide NAAQS:* The SIPs submitted on June 3, 2013 are disapproved for CAA elements 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J) for the NDEP and Washoe County portions of the Nevada SIP; no action is taken for CAA element 110(a)(2)(D)(i)(I) .

§ 52.1475 [Removed and Reserved]

■ 5. Section 52.1475 is removed and reserved.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 6. The authority citation for part 81 continues to read as follows:

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

Subpart B—Designation of Air Quality Control Regions

■ 7. Section 81.276 is added to read as follows:

§ 81.276 Nevada Intrastate Air Quality Control Region.

The Nevada Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Nevada: Churchill County, Elko County, Esmeralda County, Eureka County, Humboldt County, Lander County, Lincoln County, Mineral County, Nye County, Pershing County, and White Pine County.

[FR Doc. 2015–27029 Filed 11–2–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130919816–4205–02]

RIN 0648–XE292

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2015 Management Area 1A Seasonal Annual Catch Limit Harvested

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is implementing a 2,000 lb possession limit for Atlantic herring in or from management Area 1A, based on the projection that 92 percent of the 2015 annual seasonal catch limit for that area will have been harvested by the effective date. Federally permitted vessels may not fish for, possess, transfer, receive, land, or sell more than 2,000 lb (907.2 kg) of Atlantic herring in or from Area 1A for the remainder of the fishing year, and federally permitted dealers may not purchase more than 2,000 lb (907.2 kg) of herring from federally permitted vessels for the duration of this action. This action is necessary to comply with the regulations implementing the Atlantic Herring Fishery Management Plan and is intended to prevent over harvest in Area 1A.

DATES: Effective 1200 hr local time, November 2, 2015, through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fishery Management Specialist, (978) 282–8456.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic herring fishery can be found at 50 CFR part 648, including requirements for setting annual catch allocations. NMFS set the 2015 Area 1A sub-annual catch limit (ACL) at 30,585 mt, based on an initial 2015 sub-ACL allocation of 31,200 mt, minus a deduction of 936 mt for research set-aside catch, plus an increase of 321 mt to account for unharvested 2013 catch. NMFS established these values in the 2013 through 2015 specifications (78 FR 61828, October 1, 2013) and a final rule implementing sub-ACL adjustments for 2015 (80 FR 7808, February 12, 2015). For management Area 1A, NMFS restricts herring catch to the seasonal period from June 1 through December 31. NMFS prohibits vessels from catching herring during the seasonal period from January 1 through May 31.

The Administrator, Greater Atlantic Region, NMFS (Regional Administrator), monitors the herring fishery catch in each of the management areas based on dealer reports, state data, and other available information. The regulations at § 648.201 require that when Regional Administrator projects that herring catch will reach 92 percent of the sub-ACL allocated in any of the four management areas designated in the Atlantic herring Fishery Management Plan (FMP), NMFS must prohibit, through notification in the **Federal Register**, herring vessel permit holders from fishing for, possessing, transferring, receiving, landing, or selling more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area for the remainder of the fishing year.

The Regional Administrator has determined, based on dealer reports, state data, and other available information, that the herring fleet will have caught 92 percent of the total herring sub-ACL allocated to Area 1A by November 2, 2015. Therefore, effective 1200 hr local time, November 2, 2015, federally permitted vessels may not fish for, catch, possess, transfer, land, or sell more than 2,000 lb (907.2 kg) of herring per trip or calendar day, in or from Area 1A through December 31, 2015, except that vessels that have entered port before 1200 hr on November 2, 2015, may land and sell more than 2,000 lb (907.2 kg) of herring from Area 1A from that trip. In addition, due to state landing restrictions, all herring vessels must land in accordance with state regulations. A vessel may transit through Area 1A with more than 2,000 lb (907.2 kg) of herring on board, provided all herring was caught outside of Area 1A and all fishing gear is stowed and not available for immediate use as defined by § 648.2. Effective 1200 hr on November 2, 2015, federally permitted dealers may not receive herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 1A through 2400 hr local time, December 31, 2015, unless it is from a trip landed by a vessel that entered port before 1200 hr on November 2, 2015, and that catch is landed in accordance with state regulations.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. This action severely restricts the catch of herring in Area 1A for the remainder of the fishing year. Data indicating the herring fleet will have landed at least 92 percent of the 2015 sub-ACL allocated to Area 1A have only recently become available. Once these data become available, NMFS is required by Federal regulation to implement a 2,000-lb (907.2-kg) possession limit for Area 1A through December 31, 2015. The regulations at § 648.201(a)(1)(i) require such action to ensure that herring vessels do not exceed the 2015 sub-ACL allocated to Area 1A. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Area 1A for this fishing year will likely be exceeded, thereby undermining the conservation objectives of the FMP. If sub-ACLs are exceeded, the excess must also be deducted from a future sub-ACL and would reduce future fishing opportunities. NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: October 29, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–27997 Filed 10–29–15; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 140904754–5188–02]

RIN 0648–BF44

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2015–2016 Biennial Specifications and Management Measures; Inseason Adjustments

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces inseason changes to management measures in the Pacific Coast groundfish fisheries. This action, which is authorized by the Pacific Coast

Groundfish Fishery Management Plan (PCGFMP), is intended to allow fisheries to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: This final rule is effective October 29, 2015.

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew, phone: 206–526–6147, fax: 206–526–6736, or email: *gretchen.hanshew@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at *https://www.federalregister.gov*. Background information and documents are available at the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/*. Copies of the final environmental impact statement (FEIS) for the Groundfish Specifications and Management Measures for 2015–2016 and Biennial Periods Thereafter are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280.

Background

As part of biennial harvest specifications and management measures, annual catch limits (ACLs) are set for non-whiting groundfish species, deductions are made ''off-the-top'' from the ACL for various sources of mortality (including non-groundfish fisheries that catch groundfish incidentally, also called incidental open access fisheries) and the remainder, the fishery harvest guideline, is allocated amongst the various groundfish fisheries. The limited availability of overfished species that can be taken as incidental catch in the Pacific whiting fisheries, particularly darkblotched rockfish, Pacific ocean perch, and canary rockfish, led NMFS to implement sector-specific allocations for these species to the Pacific whiting fisheries. If the sector-specific allocation for a non-whiting species is reached, NMFS may close one or more of the at-sea sectors automatically, per regulations at § 660.60(d).

The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommended changes to current groundfish management measures at its September 9–16, 2015 meeting. The Council recommended taking a portion of the darkblotched rockfish initially deducted from the ACL that would likely go unharvested in 2015 and making it available to the mothership (MS) and catcher/processor (C/P) sectors of the at-sea Pacific whiting fishery, with no more than 5 metric tons (mt) to either sector.

Transferring Darkblotched Rockfish to the Mothership and Catcher/Processor Sectors

At the September meeting, the MS sector requested an increase to their darkblotched rockfish set-aside to accommodate higher than anticipated bycatch rates in 2015 to prevent closure of the MS sector prior to harvesting their full allocation of Pacific whiting, as occurred temporarily in 2014 before darkblotched rockfish was distributed to them (79 FR 69060, November 20, 2014). At the start of 2015, the C/P and MS sectors of the Pacific whiting fishery were allocated 9.2 mt and 6.5 mt of darkblotched rockfish, respectively, per regulations at § 660.55(c)(1)(i)(A).

According to the best available fishery information, bycatch rates of darkblotched rockfish in the MS sector have been more than double the rate seen in 2014 (Agenda Item H.9.b, Public Comment, September 2015). Additionally, recent 2015 (late-summer and early autumn) bycatch rates of darkblotched rockfish in the shoreside Pacific whiting sector have been 3.5 times higher than this time last year. This raised concerns that when the MS fleet returns in October from fishing in Alaska, bycatch rates of darkblotched rockfish would be even higher than they were in summer 2015. At the September meeting, best available information regarding bycatch rates of darkblotched rockfish in the C/P sector indicated that, if those rates continued, the Pacific whiting allocation could be achieved prior to harvesting their 2015 darkblotched rockfish set-aside. However, the Council considered the possibility of sudden, unexpected large bycatch events that occasionally occur in the MS and C/P sectors, and how one or more of those events could dramatically change the bycatch rates of darkblotched rockfish, jeopardizing continuation of their seasons and achievement of their 2015 Pacific whiting allocations.

To maintain 2015 harvest opportunities for the MS and C/P sectors of the Pacific whiting fishery, the Council considered moving darkblotched rockfish quota that would otherwise go unharvested in the incidental open access fishery to the MS and C/P sectors. At the start of 2015 a total of 20.8 mt of darkblotched rockfish was deducted from the ACL, including 18.4 mt of to account for mortality in the incidental open access fishery.

At its September 2015 meeting, the Council considered best available information regarding harvest levels of darkblotched rockfish in the incidental open access fishery to evaluate whether all 18.4 mt would be harvested in 2015, and if any of those fish that would go unharvested and could be transferred to the MS and C/P sectors inseason to allow for continued fishing opportunities in those sectors. Harvest of darkblotched rockfish in the incidental open access fisheries in 2011–2013 was below 6 mt per year, but the best estimate of mortality in 2014 increased to 24 mt. It was hypothesized that the much higher bycatch levels in 2014 may be due to a large 2013 darkblotched rockfish year class being caught in the pink shrimp trawl fishery. There was also anecdotal evidence that the use of light emitting diode (LED) lights had become widespread in the 2015 pink shrimp fishery following a 2014 research study, which could result in a drastic reduction in bycatch of juvenile darkblotched rockfish when LED lights were affixed to the shrimp trawl gear.

Therefore, the Council recommended redistributing 8 mt of darkblotched rockfish, from the ''off-the-top'' deductions that were made at the start of the 2015–2016 biennium, to the MS and C/P sectors, with no more than 5 mt to either sector, to accommodate potential bycatch of darkblotched rockfish as each sector prosecutes the remainder of their 2015 Pacific whiting allocations.

The Council's recommendation at the September meeting asked NMFS to monitor ongoing MS and C/P fisheries and redistribute darkblotched rockfish based on needs of the at-sea whiting fisheries in an effort prevent closure of those fisheries prior to achieving their respective Pacific whiting allocations. Therefore, this inseason action incorporates updated information on ongoing MS and C/P sector fisheries and on the best available information on how much darkblotched rockfish is anticipated to go unharvested from the off-the-top deductions. According to the best information available on September 29, 2015, observed darkblotched rockfish bycatch rates in the pink shrimp fishery in 2015 were much lower than in 2014, and similar to levels seen in 2011–2013. NMFS projects that the incidental open access fisheries, including the pink shrimp trawl fishery, will harvest 5.7 mt through the end of the year out of the 18.4 mt that was anticipated when the off-the-top deductions were made.

The off-the-top deduction is a sum of anticipated impacts from scientific

research activities, EFPs, Tribal fisheries, and incidental open access fisheries. Fish moved from the off-the-top deduction from the ACL and redistributed to other groundfish fisheries must be fish that would otherwise go unharvested through the end of the year. It was not quantitatively demonstrated that the 8 mt of darkblotched rockfish that the Council recommended redistributing to the MS and C/P sectors would otherwise go unharvested. Therefore, NMFS considered the higher than anticipated scientific research catch of darkblotched rockfish along with the lower than anticipated catch of darkblotched rockfish in the incidental open access fisheries in its decision making. When combined with the projected impacts from other components of the off-the-top deductions, including scientific research, EFPs, and tribal fisheries, it is anticipated that approximately 7.4 mt of the 20.8 mt off-the-top deduction will go unharvested through the end of 2015 (13.4 mt harvested out of 20.8 mt). Given this best available information, released after the Council's recommendation was made, NMFS has determined that the full 8 mt that was recommended by the Council cannot be redistributed.

Shortly after the conclusion of the September Council meeting, a bycatch event of darkblotched rockfish occurred in the C/P sectors, increasing the likelihood of early closure of that C/P sector if additional darkblotched rockfish were unavailable. Based on this information, there is need for additional darkblotched rockfish in both the MS and C/P sectors.

Based on the information presented at the September meeting, the Council's recommendation, the best available information on the available amount darkblotched rockfish, and the best available information on bycatch rates in the MS and C/P fisheries, this rule redistributes 7 mt of darkblotched rockfish that is anticipated to go unharvested in the incidental open access fisheries through the end of 2015 to the MS and C/P sectors in equal amounts, 3.5 mt to each sector. To buffer against uncertainty in the estimates, 0.4 mt of darkblotched rockfish will remain in the ''off-the-top'' deductions. 7 mt of darkblotched rockfish will be distributed equally between the MS and C/P sectors because both fisheries show higher than anticipated bycatch rates this year. If those higher rates continue and no additional darkblotched rockfish is distributed, both sectors are projected to attain their current darkblotched rockfish set-asides of 9.2 mt and 6.5 mt, respectively, before their Pacific whiting allocations are fully harvested.

This rule partially approves the Council's recommendation to provide additional darkblotched that would otherwise go unharvested in 2015. Increasing the darkblotched rockfish set-asides to 10 mt for the MS sector and 12.7 mt for the C/P sector reduces the risk of closure of the MS and C/P sectors prior to full attainment of the Pacific whiting allocation if higher than anticipated bycatch rates of darkblotched rockfish continue late in 2015. Mortality of darkblotched rockfish in the 2015 incidental open access fishery has been lower than anticipated and the projected mortality indicates it will be within the remaining off-the-top deduction after transferring the 7 mt to the MS and C/P sectors. Transfer of darkblotched rockfish to the MS and C/P sectors, when combined with projected impacts from all other sources, is not expected to result in greater impacts to darkblotched rockfish or other overfished species than originally projected through the end of the year.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best available information, consistent with the PCGFMP and its implementing regulations and the Halibut Act and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, West Coast Region, NMFS, during business hours.

NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. Also, for the same reasons, NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective October 29, 2015.

At the September 2015 Council meeting, the Council recommended that redistribution of darkblotched rockfish to the MS and C/P sectors be implemented as quickly as possible once a need for additional darkblotched rockfish was identified. Within two weeks of this recommendation, a bycatch event of darkblotched rockfish (4 mt) occurred in the C/P sectors. There was not sufficient time after the September 2015 Council meeting to undergo proposed and final rulemaking before this action needs to be in effect. For the actions implemented in this final rule, affording the time necessary for prior notice and opportunity for public comment would prevent transfer of darkblotched rockfish to the MS and C/P sectors until later in the season, or potentially eliminate the possibility or doing so during the 2015 calendar year entirely, and is therefore impractical. Failing to reapportion darkblotched rockfish to the MS and C/P sectors in a timely manner could result in unnecessary restriction of fisheries if the MS or C/P sectors exceeded their darkblotched allocations. Providing the MS and C/P sector fishermen an opportunity to harvest their limits of Pacific whiting without interruption and without exceeding their darkblotched rockfish bycatch limits allows harvest as intended by the Council, consistent with the best scientific information available. The Pacific whiting fishery contributes a large amount of revenue to the coastal communities of Washington and Oregon and this change allows continued harvest of Pacific whiting while continuing to prevent ACLs of overfished species and the allocations for target species from being exceeded. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established for 2015–2016.

Delaying these changes would also keep management measures in place that are not based on the best available information. Such delay would impair achievement of the PCGFMP goals and objectives of managing for appropriate harvest levels while providing for year-round fishing and marketing opportunities.

Accordingly, for the reasons stated above, NMFS finds good cause to waive prior notice and comment and to waive the delay in effectiveness.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian Fisheries.

Dated: October 29, 2015.

Emily H. Menashes,

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660–FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. Tables 1a and 1b to Part 660, Subpart C, are revised to read as follows:

TABLE 1A TO PART 660, SUBPART C—2015, SPECIFICATIONS OF OFL, ABC, ACL, ACT AND FISHERY HARVEST GUIDELINES

[Weights in metric tons]

	OFL	ABC	ACL[a]	Fishery HG[b]
BOCACCIO S. of 40°10′ N. lat[c]	1,444	1,380	349	341
CANARY ROCKFISH[d]	733	701	122	107
COWCOD S. of 40°10′ N. lat[e]	67	60	10	8
DARKBLOTCHED ROCKFISH[f]	574	549	338	317
PACIFIC OCEAN PERCH[g]	842	805	158	143
PETRALE SOLE[h]	2,946	2,816	2,816	2,579
YELLOWEYE ROCKFISH[i]	52	43	18	12
Arrowtooth flounder[j]	6,599	5,497	5,497	3,410
Black rockfish (OR–CA)[k]	1,176	1,124	1,000	999
Black rockfish (WA)[l]	421	402	402	388
Cabezon (CA)[m]	161	154	154	154
Cabezon (OR)[n]	49	47	47	47
California scorpionfish[o]	119	114	114	112
Chilipepper S. of 40°10′ N. lat[p]	1,703	1,628	1,628	1,604
Dover sole[q]	66,871	63,929	50,000	48,406
English sole[r]	10,792	9,853	9,853	9,640
Lingcod N. of 40°10′ N. lat[s]	3,010	2,830	2,830	2,552
Lingcod S. of 40°10′ N. lat[t]	1,205	1,004	1,004	995
Longnose skate[u]	2,449	2,341	2,000	1,927
Longspine thornyhead (coastwide)[v]	5,007	4,171	NA	NA.
Longspine thornyhead No. of 34°27′ N. lat	NA	NA	3,170	3,124
Longspine thornyhead S. of 34°27′ N. lat	NA	NA	1,001	998
Pacific Cod[w]	3,200	2,221	1,600	1,091
Pacific whiting[x]	804,576	[x]	[x]	266,684
Sablefish (coastwide)	7,857	7,173	NA	NA.
Sablefish N. of 36° N. lat[y]	NA	NA	4,793	See Table 1c.
Sablefish S. of 36° N. lat[z]	NA	NA	1,719	1,714
Shortbelly[aa]	6,950	5,789	500	498
Shortspine thornyhead (coastwide)[bb]	3,203	2,668	NA	NA.
Shortspine thornyhead N. of 34°27′ N. lat	NA	NA	1,745	1,686
Shortspine thornyhead S. of 34°27′ N. lat	NA	NA	923	881
Spiny dogfish[cc]	2,523	2,101	2,101	1,763
Splitnose S. of 40°10′ N. lat[dd]	1,794	1,715	1,715	1,705
Starry flounder[ee]	1,841	1,534	1,534	1,524
Widow rockfish[ff]	4,137	3,929	2,000	1,880
Yellowtail N. of 40°10′ N. lat[gg]	7,218	6,590	6,590	5,560
Minor Nearshore Rockfish N. of 40°10′ N. lat[hh]	88	77	69	69
Minor Shelf Rockfish N. of 40°10′ N. lat[ii]	2,209	1,944	1,944	1,872
Minor Slope Rockfish N. of 40°10′ N. lat[jj]	1,831	1,693	1,693	1,629
Minor Nearshore Rockfish S. of 40°10′ N. lat[kk]	1,313	1,169	1,114	1,110
Minor Shelf Rockfish S. of 40°10′ N. lat[ll]	1,918	1,625	1,624	1,575
Minor Slope Rockfish S. of 40°10′ N. lat[mm]	813	705	693	673
Other Flatfish[nn]	11,453	8,749	8,749	8,545
Other Fish[oo]	291	242	242	242

[a] Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

[b] Fishery harvest guidelines means the harvest guideline or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT.

[c] Bocaccio. A bocaccio stock assessment update was conducted in 2013 for the bocaccio stock between the U.S.-Mexico border and Cape Blanco. The stock is managed with stock-specific harvest specifications south of 40°10′ N. lat. and within the Minor Shelf Rockfish complex north of 40°10′ N. lat. A historical catch distribution of approximately 6 percent was used to apportion the assessed stock to the area north of 40°10′ N. lat. The bocaccio stock was estimated to be at 31.4 percent of its unfished biomass in 2013. The OFL of 1,444 mt is projected in the 2013 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,380 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 349 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2022 and an SPR harvest rate of 77.7 percent. 8.3 mt is deducted from the ACL to accommodate the incidental open access fishery (0.7 mt), EFP catch (3.0 mt) and research catch (4.6 mt), resulting in a fishery HG of 340.7 mt. The California recreational fishery has an HG of 178.8 mt.

[d] Canary rockfish. A canary rockfish stock assessment update was conducted in 2011 and the stock was estimated to be at 23.2 percent of its unfished biomass coastwide in 2011. The coastwide OFL of 733 mt is projected in the 2011 rebuilding analysis using an F_{MSY} proxy of $F_{50\%}$. The ABC of 701 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 122 mt is based on the current rebuilding plan with a target year to rebuild of 2030 and an SPR harvest rate of 88.7 percent. 15.2 mt is deducted from the ACL to accommodate the Tribal fishery (7.7 mt), the incidental open access fishery (2 mt), EFP catch (1.0 mt) and research catch (4.5 mt) resulting in a fishery HG of 106.8 mt. Recreational HGs are: 3.4 mt (Washington); 11.7 mt (Oregon); and 24.3 mt (California).

[e] Cowcod. A stock assessment for the Conception Area was conducted in 2013 and the stock was estimated to be at 33.9 percent of its unfished biomass in 2013. The Conception Area OFL of 55.0 mt is projected in the 2013 rebuilding analysis using an F_{MSY} proxy of $F_{50\%}$. The OFL contribution of 11.6 mt for the unassessed portion of the stock in the Monterey area is based on depletion-based stock reduction analysis. The OFLs for the Monterey and Conception areas were summed to derive the south of 40°10′ N. lat. OFL of 66.6 mt. The ABC for the area south of 40°10′ N. lat. is 59.9 mt. The assessed portion of the stock in the Conception Area is considered category 2, with a Conception area contribution to the ABC of 50.2 mt, which is an 8.7 percent reduction from the Conception area OFL (σ=0.72/P*=0.45). The unassessed portion of the stock in the Monterey area is considered a category 3 stock, with a contribution to the ABC of 9.7 mt, which is a 16.6 percent reduction from the Monterey area OFL (σ=1.44/P*=0.45). A single ACL of 10.0 mt is being set for both areas combined. The ACL of 10.0 mt is based on the rebuilding plan with a target year to rebuild of 2020 and an SPR harvest rate of 82.7 percent, which is equivalent to an exploitation rate (catch over age 11+ biomass) of 0.007. 2.0 mt is deducted from the ACL to accommodate EFP fishing (less than 0.02 mt) and research activity (2.0 mt), resulting in a fishery HG of 8.0 mt. Any additional mortality in research activities will be deducted from the ACL. A single ACT of 4.0 mt is being set for both areas combined.

[f] Darkblotched rockfish. A 2013 stock assessment estimated the stock to be at 36 percent of its unfished biomass in 2013. The OFL of 574 mt is projected in the 2013 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 549 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 338 mt is based on the current rebuilding plan with a target year to rebuild of 2025 and an SPR harvest rate of 64.9 percent. 20.8 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), the incidental open access fishery (18.4 mt), EFP catch (0.1 mt) and research catch (2.1 mt), resulting in a fishery HG of 317.2 mt. Of the 18.4 mt initially deducted from the ACL to account for mortality in the incidental open access fishery, a total of 7.0 mt is distributed to the mothership and catcher/processor sectors, 3.5 mt to each sector consistent with 660.60(c)(3)(ii), resulting in a 13.8 mt deduction from the ACL.

[g] Pacific Ocean Perch. A POP stock assessment was conducted in 2011 and the stock was estimated to be at 19.1 percent of its unfished biomass in 2011. The OFL of 842 mt for the area north of 40°10′ N. lat. is projected in the 2011 rebuilding analysis using an $F_{50\%}$ F_{MSY} proxy. The ABC of 805 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 158 mt is based on the current rebuilding plan with a target year to rebuild of 2051 and an SPR harvest rate of 86.4 percent. 15 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), the incidental open access fishery (0.6 mt), and research catch (5.2 mt), resulting in a fishery HG of 143.0 mt.

[h] Petrale sole. A 2013 stock assessment estimated the stock to be at 22.3 percent of its unfished biomass in 2013. The OFL of 2,946 mt is projected in the 2013 assessment using an $F_{30\%}$ F_{MSY} proxy. The ABC of 2,816 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is based on the 25–5 harvest control rule specified in the current rebuilding plan; since the stock is projected to be rebuilt at the start of 2014, the ACL is set equal to the ABC. 236.6 mt is deducted from the ACL to accommodate the Tribal fishery (220 mt), the incidental open access fishery (2.4 mt), and research catch (14.2 mt), resulting in a fishery HG of 2,579.4 mt.

[i] Yelloweye rockfish. A stock assessment update was conducted in 2011. The stock was estimated to be at 21.4 percent of its unfished biomass in 2011. The 52 mt coastwide OFL was projected in the 2011 rebuilding analysis using an F_{MSY} proxy of $F_{50\%}$. The ABC of 43 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The 18 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2074 and an SPR harvest rate of 76.0 percent. 5.8 mt is deducted from the ACL to accommodate the Tribal fishery (2.3 mt), the incidental open access fishery (0.2 mt), EFP catch (0.03 mt) and research catch (3.3 mt) resulting in a fishery HG of 12.2 mt. Recreational HGs are: 2.9 mt (Washington); 2.6 mt (Oregon); and 3.4 mt (California).

[j] Arrowtooth flounder. The arrowtooth flounder stock was last assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. The OFL of 6,599 mt is derived from the 2007 assessment using an $F_{30\%}$ F_{MSY} proxy. The ABC of 5,497 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 2,087 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), the incidental open access fishery (30 mt), and research catch (16.4 mt), resulting in a fishery HG of 3,410 mt.

[k] Black rockfish south (Oregon and California). A stock assessment was conducted for black rockfish south of 45°46′ N. lat. (Cape Falcon, Oregon) to Central California (*i.e.,* the southern-most extent of black rockfish, Love et al. 2002) in 2007. The biomass in the south was estimated to be at 70 percent of its unfished biomass in 2007. The OFL from the assessed area is derived from the 2007 assessment using an F_{MSY} harvest rate proxy of $F_{50\%}$ plus 3 percent of the OFL from the stock assessment conducted for black rockfish north of 45°46′ N. lat., to cover the portion of the stock occurring off Oregon north of Cape Falcon (the 3% adjustment is based on historical catch distribution). The resulting OFL for the area south of 46°16′ N. lat. is 1,176 mt. The ABC of 1,124 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 2015 ACL is 1,000 mt, which maintains the constant catch strategy designed to keep the stock above its target biomass of $B_{40\%}$. 1 mt is deducted from the ACL to accommodate EFP catch, resulting in a fishery HG of 999 mt. The black rockfish ACL, in the area south of 46°16′ N. lat. (Columbia River), is subdivided with separate HGs for waters off Oregon (579 mt/58 percent) and for waters off California (420 mt/42 percent).

[l] Black rockfish north (Washington). A stock assessment was conducted for black rockfish north of 45°46′ N. lat. (Cape Falcon, Oregon) in 2007. The biomass in the north was estimated to be at 53 percent of its unfished biomass in 2007. The OFL from the assessed area is derived from the 2007 assessment using an F_{MSY} harvest rate proxy of $F_{50\%}$. The resulting OFL for the area north of 46°16′ N. lat. is 421 mt and is 97 percent of the OFL from the assessed area based on the area distribution of historical catch. The ABC of 402 mt for the north is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC since the stock is above its target biomass of $B_{40\%}$. 14 mt is deducted from the ACL to accommodate the Tribal fishery, resulting in a fishery HG of 388 mt.

[m] Cabezon (California). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off California was estimated to be at 48.3 percent of its unfished biomass in 2009. The OFL of 161 mt is calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 154 mt is based on a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. There are no deductions from the ACL so the fishery HG is equal to the ACL of 154 mt.

[n] Cabezon (Oregon). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off Oregon was estimated to be at 52 percent of its unfished biomass in 2009. The OFL of 49 mt is calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 47 mt is based on a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. There are no deductions from the ACL so the fishery HG is also equal to the ACL of 47 mt.

[o] California scorpionfish was assessed in 2005 and was estimated to be at 79.8 percent of its unfished biomass in 2005. The OFL of 119 mt is projected in the 2005 assessment using an F_{MSY} harvest rate proxy of $F_{50\%}$. The ABC of 114 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 2 mt is deducted from the ACL to accommodate the incidental open access fishery, resulting in a fishery HG of 112 mt.

[p] Chilipepper. The coastwide chilipepper stock was assessed in 2007 and estimated to be at 70 percent of its unfished biomass in 2006. Chilipepper are managed with stock-specific harvest specifications south of 40°10 N. lat. and within the Minor Shelf Rockfish complex north of 40°10′ N. lat. Projected OFLs are stratified north and south of 40°10′ N. lat. based on the average 1998–2008 assessed area catch, which is 93 percent for the area south of 40°10′ N. lat. and 7 percent for the area north of 40°10′ N. lat. The OFL of 1,703 mt for the area south of 40°10′ N. lat. is projected in the 2007 assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,628 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 24 mt is deducted from the ACL to accommodate the incidental open access fishery (5 mt), EFP fishing (10 mt), and research catch (9 mt), resulting in a fishery HG of 1,604 mt.

[q] Dover sole. A 2011 Dover sole assessment estimated the stock to be at 83.7 percent of its unfished biomass in 2011. The OFL of 66,871 mt is projected in the 2011 stock assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 63,929 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL could be set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. However, the ACL of 50,000 mt is set at a level below the ABC and higher than the maximum historical landed catch. 1,594 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), the incidental open access fishery (55 mt), and research catch (41.9 mt), resulting in a fishery HG of 48,406 mt.

[r] English sole. A 2013 stock assessment was conducted, which estimated the stock to be at 88 percent of its unfished biomass in 2013. The OFL of 10,792 mt is projected in the 2013 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 9,853 mt is an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) as it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 213 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (7 mt) and research catch (5.8 mt), resulting in a fishery HG of 9,640 mt.

[s] Lingcod north. A lingcod stock assessment was conducted in 2009. The lingcod spawning biomass off Washington and Oregon was estimated to be at 62 percent of its unfished biomass in 2009. The OFL for Washington and Oregon of 1,898 mt is calculated using an F_{MSY} proxy of $F_{45\%}$. The OFL is re-apportioned by adding 48% of the OFL from California, resulting in an OFL of 3,010 mt for the area north of 40°10′ N. lat. The ABC of 2,830 mt is based on a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) for the area north of 42° N. lat. as it's a category 1 stock, and an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) for the area between 42° N. lat. and 40°10′ N. lat. as it's a category 2 stock. The ACL is set equal to the ABC. 278 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (16 mt), EFP catch (0.5 mt) and research catch (11.7 mt), resulting in a fishery HG of 2,552 mt.

[t] Lingcod south. A lingcod stock assessment was conducted in 2009. The lingcod spawning biomass off California was estimated to be at 74 percent of its unfished biomass in 2009. The OFL for California of 2,317 mt is projected in the assessment using an F_{MSY} proxy of F45%. The OFL is re-apportioned by subtracting 48% of the OFL, resulting in an OFL of 1,205 mt for the area south of 40°10′ N. lat. The ABC of 1,004 mt is based on a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC since the stock is above its target biomass of $B_{40\%}$. 9 mt is deducted from the ACL to accommodate the incidental open access fishery (7 mt), EFP fishing (1 mt), and research catch (1.1 mt), resulting in a fishery HG of 995 mt.

[u] Longnose skate. A stock assessment was conducted in 2007 and the stock was estimated to be at 66 percent of its unfished biomass. The OFL of 2,449 mt is derived from the 2007 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 2,341 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 2,000 mt is a fixed harvest level that provides greater access to the stock and is less than the ABC. 73 mt is deducted from the ACL to accommodate the Tribal fishery (56 mt), incidental open access fishery (3.8 mt), and research catch (13.2 mt), resulting in a fishery HG of 1,927 mt.

[v] Longspine thornyhead. A 2013 longspine thornyhead coastwide stock assessment estimated the stock to be at 75 percent of its unfished biomass in 2013. A coastwide OFL of 5,007 mt is projected in the 2013 stock assessment using an $F_{50\%}$ F_{MSY} proxy. The ABC of 4,171 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. For the portion of the stock that is north of 34°27′ N. lat., the ACL is 3,170 mt, and is 76 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 47 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (3 mt), and research catch (13.5 mt) resulting in a fishery HG of 3,124 mt. For that portion of the stock south of 34°27′ N. lat. the ACL is 1,001 mt and is 24 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 3 mt is deducted from the ACL to accommodate the incidental open access fishery (2 mt), and research catch (1 mt) resulting in a fishery HG of 998 mt.

[w] Pacific cod. The 3,200 mt OFL is based on the maximum level of historic landings. The ABC of 2,221 mt is a 30.6 percent reduction from the OFL (σ=1.44/P*=0.40) as it's a category 3 stock. The 1,600 mt ACL is the OFL reduced by 50 percent as a precautionary adjustment. 509 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), research catch (7 mt), and the incidental open access fishery (2.0 mt), resulting in a fishery HG of 1,091 mt.

[x] Pacific whiting. The coastwide stock assessment was conducted in 2015 and estimated the stock to be at 74 percent of its unfished biomass. The 2015 OFL of 804,576 mt is based on the 2015 assessment with an $F_{40\%}$ F_{MSY} proxy. The 2015 coastwide, unadjusted Total Allowable Catch (TAC) of 383,365 mt is based on the 2015 stock assessment. Consistent with the provisions of the Pacific Hake/Whiting Agreement, up to 15 percent of each party's unadjusted 2014 TAC (41,842 mt for the U.S. and 14,793 mt for Canada) is added to the 2015 unadjusted TAC, resulting in an adjusted coastwide 2015 TAC of 440,000 mt. The U.S. TAC is 73.88 percent of the coastwide TAC. The U.S. adjusted 2015 TAC is 325,072 mt. From the adjusted U.S. TAC, 56,888 mt is deducted to accommodate the Tribal fishery, and 1,500 mt is deducted to accommodate research and bycatch in other fisheries, resulting in a fishery HG of 266,684 mt. The TAC for Pacific whiting is established under the provisions of the Pacific Hake/Whiting Agreement with Canada and the Pacific Whiting Act of 2006, 16 U.S.C. 7001–2010, and the international exception applies. Therefore, no ABC or ACL values are provided for Pacific whiting.

[y] Sablefish north. A coastwide sablefish stock assessment was conducted in 2011. The coastwide sablefish biomass was estimated to be at 33 percent of its unfished biomass in 2011. The coastwide OFL of 7,857 mt is projected in the 2011 stock assessment using an F_{MSY} proxy of $F_{45\%}$. The ABC of 7,173 mt is an 8.7 percent reduction from the OFL (σ=0.36/P*=0.40). The 40–10 adjustment is applied to the ABC to derive a coastwide ACL value because the stock is in the precautionary zone. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N. lat., using the 2003–2010 average estimated swept area biomass from the NMFS NWFSC trawl survey, with 73.6 percent apportioned north of 36° N. lat. and 26.4 percent apportioned south of 36° N. lat. The northern ACL is 4,793 mt and is reduced by 479 mt for the tribal allocation (10 percent of the ACL north of 36° N. lat.). The 479 mt Tribal allocation is reduced by 1.6 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c.

[z] Sablefish south. The ACL for the area south of 36° N. lat. is 1,719 mt (26.4 percent of the calculated coastwide ACL value). 5 mt is deducted from the ACL to accommodate the incidental open access fishery (2 mt) and research catch (3 mt), resulting in a fishery HG of 1,714 mt.

[aa] Shortbelly rockfish. A non-quantitative shortbelly rockfish assessment was conducted in 2007. The spawning stock biomass of shortbelly rockfish was estimated to be 67 percent of its unfished biomass in 2005. The OFL of 6,950 mt is based on the estimated MSY in the 2007 stock assessment. The ABC of 5,789 mt is a 16.7 percent reduction of the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The 500 mt ACL is set to accommodate incidental catch when fishing for co-occurring healthy stocks and in recognition of the stock's importance as a forage species in the California Current ecosystem. 2 mt is deducted from the ACL to accommodate research catch, resulting in a fishery HG of 498 mt.

[bb] Shortspine thornyhead. A 2013 coastwide shortspine thornyhead stock assessment estimated the stock to be at 74.2 percent of its unfished biomass in 2013. A coastwide OFL of 3,203 mt is projected in the 2013 stock assessment using an $F_{50\%}$ F_{MSY} proxy. The coastwide ABC of 2,668 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. For the portion of the stock that is north of 34°27′ N. lat., the ACL is 1,745 mt. The northern ACL is 65.4 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 59 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (2 mt), and research catch (7 mt) resulting in a fishery HG of 1,686 mt for the area north of 34°27′ N. lat. For that portion of the stock south of 34°27′ N. lat. the ACL is 923 mt. The southern ACL is 35.6 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 42 mt is deducted from the ACL to accommodate the incidental open access fishery (41 mt) and research catch (1 mt), resulting in a fishery HG of 881 mt for the area south of 34°27′ N. lat.

[cc] Spiny dogfish. A coastwide spiny dogfish stock assessment was conducted in 2011. The coastwide spiny dogfish biomass was estimated to be at 63 percent of its unfished biomass in 2011. The coastwide OFL of 2,523 mt is derived from the 2011 assessment using an F_{MSY} proxy of $F_{50\%}$. The coastwide ABC of 2,101 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 338 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), the incidental open access fishery (49.5 mt), EFP catch (1 mt), and research catch (12.5 mt), resulting in a fishery HG of 1,763 mt.

[dd] Splitnose rockfish. A splitnose rockfish coastwide assessment was conducted in 2009 that estimated the stock to be at 66 percent of its unfished biomass in 2009. Splitnose rockfish in the north is managed in the Minor Slope Rockfish complex and with species-specific harvest specifications south of 40°10′ N. lat. The coastwide OFL is projected in the 2009 assessment using an F_{MSY} proxy of $F_{50\%}$. The coastwide OFL is apportioned north and south of 40°10′ N. lat. based on the average 1916–2008 assessed area catch resulting in 64.2 percent of the coastwide OFL apportioned south of 40°10′ N. lat., and 35.8 percent apportioned for the contribution of splitnose rockfish to the northern Minor Slope Rockfish complex. The southern OFL of 1,794 mt results from the apportionment described above. The southern ABC of 1,715 mt is a 4.4 percent reduction from the southern OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is estimated to be above its target biomass of $B_{40\%}$. 10.5 mt is deducted from the ACL to accommodate research catch (9 mt) and EFP catch (1.5 mt), resulting in a fishery HG of 1,705 mt.

[ee] Starry Flounder. The stock was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005 (44 percent in Washington and Oregon, and 62 percent in California). The coastwide OFL of 1,841 mt is derived from the 2005 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 1,534 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC because the stock is estimated to be above its target biomass of $B_{25\%}$. 10.3 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), and the incidental open access fishery (8.3 mt), resulting in a fishery HG of 1,524 mt.

[ff] Widow rockfish. The widow rockfish stock was assessed in 2011 and was estimated to be at 51.1 percent of its unfished biomass in 2011. The OFL of 4,137 mt is projected in the 2011 stock assessment using an $F_{50\%}$ F_{MSY} proxy. The ABC of 3,929 mt is a 5 percent reduction from the OFL (σ=0.41/P*=0.45). A unique sigma of 0.41 was calculated for widow rockfish since the variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The ACL could be set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. However, the ACL of 2,000 mt is less than the ABC due to high uncertainty in estimated biomass, yet this level of allowable harvest will allow access to healthy co-occurring species, such as yellowtail rockfish. 120.2 mt is deducted from the ACL to accommodate the Tribal fishery (100 mt), the incidental open access fishery (3.3 mt), EFP catch (9 mt), and research catch (7.9 mt), resulting in a fishery HG of 1,880 mt.

[gg] Yellowtail rockfish. A 2013 yellowtail rockfish stock assessment was conducted for the portion of the population north of 40°10′ N. lat. The estimated stock depletion is 69 percent of its unfished biomass in 2013. The OFL of 7,218 mt is projected in the 2013 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 6,590 mt is an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) as it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 1,029.6 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), the incidental open access fishery (3 mt), EFP catch (10 mt), and research catch (16.6 mt), resulting in a fishery HG of 5,560 mt.

[hh] Minor Nearshore Rockfish north. The OFL for Minor Nearshore Rockfish north of 40°10′ N. lat. of 88 mt is the sum of the OFL contributions for the component species managed in the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (*i.e.,* blue rockfish in California, brown rockfish, China rockfish, and copper rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 77 mt is the summed contribution of the ABCs for the component species. The ACL of 69 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks plus the ACL contributions for blue rockfish in California and China rockfish where the 40–10 adjustment was applied to the ABC contributions for these two stocks, because those stocks are in the precautionary zone. No deductions are made to the ACL, thus the fishery HG is equal to the ACL, which is 69 mt. Between 40°10′ N. lat. and 42° N. lat. the Minor Nearshore Rockfish complex north has a harvest guideline of 23.7 mt. Blue rockfish south of 42° N. lat. has a species-specific HG, described in footnote kk/.

[ii] Minor Shelf Rockfish north. The OFL for Minor Shelf Rockfish north of 40°10′ N. lat. of 2,209 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (*i.e.,* greenspotted rockfish between 40°10′ and 42° N. lat. and greenstriped rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,944 mt is the summed contribution of the ABCs for the component species. The ACL of 1,944 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40–10 adjustment was applied to the ABC contribution because the stock is in the precautionary zone (the ACL is slightly less than the ABC but rounds to the ABC value). 72 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (26 mt), EFP catch (3 mt), and research catch (13.4 mt), resulting in a fishery HG of 1,872 mt.

[jj] Minor Slope Rockfish north. The OFL for Minor Slope Rockfish north of 40°10′ N. lat. of 1,831 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the Minor Slope Rockfish complexes are based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.36 for other category 1 stocks (*i.e.,* splitnose rockfish), a sigma value of 0.72 for category 2 stocks (*i.e.,* rougheye rockfish, blackspotted rockfish and sharpchin rockfish), and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish since the variance in estimated spawning biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 1,693 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the ABC because all the assessed component stocks are above the target biomass of $B_{40\%}$. 64 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), the incidental open access fishery (19 mt), EFP catch (1 mt), and research catch (8.1 mt), resulting in a fishery HG of 1,629 mt.

[kk] Minor Nearshore Rockfish south. The OFL for the Minor Nearshore Rockfish complex south of 40°10′ N. lat. of 1,313 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Nearshore Rockfish complex is based on a sigma value of 0.36 for category 1 stocks (*i.e.,* gopher rockfish north of 34°27′ N. lat.), a sigma value of 0.72 for category 2 stocks (*i.e.,* blue rockfish north of 34°27′ N. lat., brown rockfish, China rockfish, and copper rockfish), and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,169 mt is the summed contribution of the ABCs for the component species. The ACL of 1,114 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution for blue rockfish north of 34°27′ N. lat. where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 4 mt is deducted from the ACL to accommodate the incidental open access fishery (1.4 mt) and research catch (2.6 mt), resulting in a fishery HG of 1,110 mt. Blue rockfish south of 42° N. lat. has a species-specific HG set equal to the 40–10-adjusted ACL for the portion of the stock north of 34°27′ N lat. (133.6 mt) plus the ABC contribution for the unassessed portion of the stock south of 34°27′ N lat. (60.8 mt). The California (*i.e.,* south of 42° N. lat.) blue rockfish HG is 194.4 mt.

[ll] Minor Shelf Rockfish south. The OFL for the Minor Shelf Rockfish complex south of 40°10′ N. lat. of 1,918 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the southern Minor Shelf Rockfish complex is based on a sigma value of 0.72 for category 2 stocks (*i.e.,* greenspotted and greenstriped rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,625 mt is the summed contribution of the ABCs for the component species. The ACL of 1,624 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 49 mt is deducted from the ACL to accommodate the incidental open access fishery (9 mt), EFP catch (30 mt), and research catch (9.6 mt), resulting in a fishery HG of 1,575 mt.

[mm] Minor Slope Rockfish south. The OFL for the Minor Slope Rockfish complex south of 40°10′ N. lat. of 813 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Slope Rockfish complex is based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.72 for category 2 stocks (*i.e.,* blackgill rockfish, rougheye rockfish, blackspotted rockfish, and sharpchin rockfish), and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish since the variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 705 mt is the summed contribution of the ABCs for the component species. The ACL of 693 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of blackgill rockfish where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 20 mt is deducted from the ACL to accommodate the incidental open access fishery (17 mt), EFP catch (1 mt), and research catch (2 mt), resulting in a fishery HG of 673 mt. Blackgill rockfish has a species-specific HG set equal to the species' contribution to 40–10-adjusted ACL. The blackgill rockfish HG is 114 mt.

[nn] Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with species-specific OFLs/ABCs/ACLs. Most of the species in the Other Flatfish complex are unassessed and include butter sole, curlfin sole, flathead sole, Pacific sanddab (assessed in 2013 but the assessment results were too uncertain to inform harvest specifications), rock sole, sand sole, and rex sole (assessed in 2013). The Other Flatfish OFL of 11,453 mt is based on the sum of the OFL contributions of the component stocks. The ABC of 8,749 mt is based on a sigma value of 0.72 for category 2 stocks (*i.e.,* rex sole) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.40. The ACL is set equal to the ABC since all of the assessed stocks (*i.e.,* Pacific sanddabs and rex sole) were above their target biomass of $B_{25\%}$. 204 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), the incidental open access fishery (125 mt), and research catch (19 mt), resulting in a fishery HG of 8,545 mt.

[oo] Other Fish. The Other Fish complex is comprised of kelp greenling coastwide, cabezon off Washington, and leopard shark coastwide. These species are unassessed. The OFL of 291 mt is the sum of the OFL contributions for kelp greenling off California (the SSC has not approved methods for calculating the OFL contributions for kelp greenling off Oregon and Washington), cabezon off Washington, and leopard shark coastwide. The ABC of 242 mt is the sum of ABC contributions for kelp greenling off California, cabezon off Washington and leopard shark coastwide calculated by applying a P* of 0.45 and a sigma of 1.44 to the OFL contributions for those stocks. The ACL is set equal to the ABC. There are no deductions from the ACL so the fishery HG is equal to the ACL of 242 mt.

TABLE 1B TO PART 660, SUBPART C—2015, ALLOCATIONS BY SPECIES OR SPECIES GROUP

[Weight in metric tons]

Species	Area	Fishery HG or ACT	Trawl		Non-trawl	
			Percent	Mt	Percent	Mt
BOCACCIO [a]	S of 40°10′ N. lat.	340.7	N/A	81.9	N/A	258.8
CANARY ROCKFISH [a b]	Coastwide	106.8	N/A	56.9	N/A	49.9
COWCOD [a c]	S of 40°10′ N. lat.	4	N/A	1.4	N/A	2.6
DARKBLOTCHED ROCKFISH [d]	Coastwide	317.2	95	301.3	5	15.9
PACIFIC OCEAN PERCH [e]	N of 40°10′ N. lat.	143	95	135.9	5	7.2
PETRALE SOLE [a]	Coastwide	2,579.40	N/A	2,544.4	N/A	35
YELLOWEYE ROCKFISH [a]	Coastwide	12.2	N/A	1	N/A	11.2
Arrowtooth flounder	Coastwide	3,410	95	3,239	5	170
Chilipepper	S of 40°10′ N. lat.	1,604	75	1,203	25	401
Dover sole	Coastwide	48,406	95	45,986	5	2,420
English sole	Coastwide	9,640	95	9,158	5	482
Lingcod	N of 40°10′ N. lat.	2,552	45	1,148	55	1,404
Lingcod	S. of 40°10′ N. lat.	995	45	448	55	547
Longnose skate [a]	Coastwide	1,927	90	1,734	10	193
Longspine thornyhead	N of 34°27′ N. lat.	3,124	95	2,967	5	156
Pacific cod	Coastwide	1,091	95	1,036	5	55
Pacific whiting	Coastside	266,684	100	266,684	0	0
Sablefish	N of 36° N. lat.	0	See Table 1c			
Sablefish	S of 36° N. lat.	1,714	42	720	58	994
Shortspine thornyhead	N of 34°27′ N. lat.	1,686	95	1,601	5	84
Shortspine thornyhead	S of 34°27′ N. lat.	881	N/A	50	N/A	831
Splitnose	S of 40°10′ N. lat.	1,705	95	1,619	5	85
Starry flounder	Coastwide	1,524	50	762	50	762
Widow rockfish [f]	Coastwide	1,880	91	1,711	9	169
Yellowtail rockfish	N of 40°10′ N. lat.	5,560	88	4,893	12	667
Minor Shelf Rockfish complex [a]	N of 40°10′ N. lat.	1,872	60.20	1,127	39.8	745
Minor Shelf Rockfish complex [a]	S of 40°10′ N. lat.	1,575	12.20	192	87.8	1,383
Minor Slope Rockfish complex.	N of 40°10′ N. lat.	1,629	81	1,319	19	309
Minor Slope Rockfish complex.	S of 40°10′ N. lat.	673	63	424	37	249
Other Flatfish complex	Coastwide	8,545	90	7,691	10	855

[a] Allocations decided through the biennial specification process.

[b] 13.7 mt of the total trawl allocation of canary rockfish is allocated to the at-sea whiting fisheries, as follows: 5.7 mt for the mothership fishery, and 8.0 mt for the catcher/processor fishery.

[c] The cowcod fishery harvest guideline is further reduced to an ACT of 4.0 mt.

[d] Consistent with regulations at § 660.55(c), 9 percent (27.1 mt) of the total trawl allocation for darkblotched rockfish is allocated to the whiting fisheries, as follows: 11.4 mt for the shorebased IFQ fishery, 6.5 mt for the mothership fishery, and 9.2 mt for the catcher/processor fishery. The amounts available to the mothership and catcher/processor fisheries were each raised by 3.5 mt, to 10 mt for the mothership fishery and to 12.7 mt for the catcher/processor fishery, by distributing 7.0 mt of the 18.4 mt initially deducted from the ACL to account for mortality in the incidental open access fishery, consistent with 660.60(c)(3)(ii). The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

[e] Consistent with regulations at § 660.55(c), 30 mt of the total trawl allocation for POP is allocated to the whiting fisheries, as follows: 12.6 mt for the shorebased IFQ fishery, 7.2 mt for the mothership fishery, and 10.2 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

[f] Consistent with regulations at § 660.55(c), 500 mt of the total trawl allocation for widow rockfish is allocated to the whiting fisheries, as follows: 210 mt for the shorebased IFQ fishery, 120 mt for the mothership fishery, and 170 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

[FR Doc. 2015–27995 Filed 10–29–15; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 212
Tuesday, November 3, 2015

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

DEPARTMENT OF EDUCATION

2 CFR Part 3474

[Docket ID ED–2015–OS–0105]

RIN 1894–AA07

Open Licensing Requirement for Direct Grant Programs

AGENCY: Office of the Secretary, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations regarding the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in order to require that all Department grantees awarded direct competitive grant funds openly license to the public all copyrightable intellectual property created with Department grant funds.

These proposed changes would increase the Department's ability to be more strategic with limited resources, broadening the impact of its investments by allowing stakeholders, such as local educational agencies (LEAs), State educational agencies (SEAs), institutions of higher education (IHEs), and other entities, to benefit from these investments, even if they are not themselves recipients of Department funds. An open licensing requirement would also allow the Department to sustain innovations beyond the grant period by encouraging subject matter experts and users to adapt, update, and build upon grant products, stimulating quality and innovation in the development of educational resources. Finally, the proposed requirement would promote equity and access to Department-funded technology and materials and increase transparency and accountability for the Department and its grantees.

DATES: We must receive your comments on or before December 3, 2015.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the help tab at ''How To Use Regulations.gov.''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the proposed regulations, address them to Sharon Leu, U.S. Department of Education, 400 Maryland Avenue SW., Room 6W252, Washington, DC 20202–5900.

Privacy Note: The Department's policy for comments received from members of the public is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Sharon Leu, U.S. Department of Education, 400 Maryland Avenue SW., room 6W252, Washington, DC 20202. Telephone: (202) 453–5646 or by email: *tech@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs and activities.

Specific Issues Open for Comment:

In addition to your general comments, we are particularly interested in your feedback on the following questions:

- Should the Department require that copyrightable works be openly licensed prior to the end of the grant period as opposed to after the grant period is over? If yes, what impact would this have on the quality of the final product?
- Should the Department include a requirement that grantees distribute copyrightable works created under a direct competitive grant program? If yes, what suggestions do you have on how the Department should implement such a requirement?
- What further activities would increase public knowledge about the materials and resources that are created using the Department's grant funds and broaden their dissemination?
- What technical assistance should the Department provide to grantees to promote broad dissemination of their grant-funded intellectual property?
- What experiences do you have implementing requirements of open licensing policy with other Federal agencies? Please share your experiences with these different approaches, including lessons learned and recommendations that might be related to this document.

During and after the comment period, you may inspect all public comments about these proposed regulations by accessing Regulations.gov. You may also inspect the comments, in person, in room 6W100, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays. Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If

you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

The Department's regulations and policies related to copyrightable works created by Department grant funds have continually evolved with the goal of maximizing the dissemination of these works to the public.

In regulations published in the **Federal Register** on April 3, 1980 (45 FR 22494, 22550), the Department implemented a new policy that allowed grantees to retain unlimited rights to copyright and royalty income. Simultaneously, the Department retained a royalty-free, non-exclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use without cost, works created with Department grant funds for Federal Government purposes (45 FR 22593). The purpose of this regulation was to create a policy that was conducive to disseminating grant-funded works to the public that was consistent with provisions in OMB Circular A–110.

After this final rule was promulgated, the Department thereafter amended part 80 on March 11, 1988 (53 FR 8034, 8071), and part 74 on July 6, 1994 (59 FR 34722, 34733–34), to incorporate this copyright policy. These provisions remained in effect until 2014, when the Department removed parts 74 and 80 from title 34 and adopted 2 CFR part 200 (79 FR 75871), including 200.315(b) which reflects the current policy. The 1988, 1994, and 2014 rulemakings did not substantively alter the policy.

We believe that the wide variety of educational materials created through the Department's discretionary competitive grants should be shared more broadly with the public. Even though current policy allows the public to access grant-funded resources for use for Federal Government purposes by seeking permission from the Department, the public rarely requested access to these copyrighted materials, possibly due to administrative barriers, lack of clarity regarding the scope of Federal Government purposes, or lack of information about available products. We believe that removing barriers and clarifying usage rights to these products, including lesson plans, instructional plans, professional development tools, and other teaching and learning resources will benefit the Department's diverse stakeholders and will benefit teaching and learning. These include LEAs, SEAs, IHEs, students, nonprofit educational organizations, and others beyond direct grant recipients. The Department's goal remains to institute a policy that results in broadest and most effective dissemination of grant-funded works to the public, and therefore the Department is proposing to modify this policy to require, with minimal exceptions, that all copyrightable works created under a direct competitive grant program be openly licensed.

Proposed Regulatory Changes

2 CFR Part 3474

Section 3474.20 Open Licensing Requirement for Direct

Competitive Grant Programs

Current Regulations: None.

Proposed Regulations: Proposed § 3474.20 would establish an open licensing requirement for copyrightable works created using funds from direct competitive grant programs. Section 3474.20 would require that all Department grantees awarded direct competitive grant funds openly license to the public all copyrightable intellectual property created with Department grant funds. This requirement would apply to only new copyrightable materials created with Department grant funds and copyrightable modifications made to pre-existing content using Department grant funds awarded after the effective date of the final regulations.

Accordingly, the proposed open licensing requirement would not apply to existing grants or existing copyrightable intellectual property. Additionally, the proposed regulations would not apply to grants that provide funding for general operating expenses, grants that provide support to individuals (*e.g.,* scholarships, fellowships), or peer-reviewed research publications that arise from scientific research funded, either fully or partially, from grants awarded by the Institute of Education Sciences (Institute) that are already covered by the Institute's existing public access policy, found at *http://ies.ed.gov/funding/researchaccess.asp.* Moreover, the Secretary would retain authority pursuant to 2 CFR 3474.5 and 2 CFR 200.102 to authorize exceptions to the open licensing requirement.

These proposed regulations would allow the public to access and use copyrightable intellectual property created with direct competitive grant funds for any purpose, provided that the user gives attribution to the designated authors or copyright holders of the intellectual property.

Reasons: We believe that the wide variety of educational materials created through the Department's direct competitive grants should be shared broadly with the public. These products, including lesson plans, instructional plans, professional development tools, and other teaching and learning resources provide benefit to LEAs, SEAs, IHEs, nonprofit educational organizations, and others beyond direct competitive grant recipients. Current Department practice, in combination with Federal grant regulations and copyright law, may present unnecessary barriers for the public to access these materials. Under current practice, Department grantees retain an ''all rights reserved copyright,'' allowing them to restrict reuse and redistribution of these materials, sometimes resulting in significant cost or administrative burden to the general public for their access. In addition, in general, the Department currently exercises its Federal purpose license in § 200.315(b) only in rare cases where a grantee fails to implement its copyright or prices its product at an unacceptably high cost that educators cannot afford to pay. While the current practice helps make copyrightable work created by grantees more available to educators, we are concerned that the policy fails to make the materials more widely available to all educators, regardless of their resources. For example, in certain instances, grant-funded materials may only be commercially available, requiring the public to incur additional costs for their use. While the Department recognizes that commercial incentives can often encourage the development of high-quality materials, we believe that the public should have access to works created under a Department direct competitive grant with public funds at the lowest cost possible.

To this end, the proposed regulation under § 3474.20, requires all Department grantees awarded direct competitive grant funds to openly license to the public all copyrightable intellectual property created with these funds. Open licensing would broaden the impact of ED investments, allowing LEAs, SEAs, IHEs, students, and others beyond direct grant recipients to benefit from the Department's investment. These stakeholders would have free access to and use of all materials produced by grantees, without needing to seek permission from the copyright holder to access such resource for each instance of use or to create derivative works. We believe this access would accelerate innovation and improve quality in education by enabling others to test and build upon Department-

funded work, and by stimulating a market of derivative works. In addition, access to technology and high-quality materials would promote equity and especially benefit resource-poor stakeholders.

This requirement would also increase the Department's ability to be more strategic with limited resources. For example, in some cases, dissemination of openly licensed materials could reduce the need to fund multiple duplicate projects. In other cases, it could encourage diversity and non-duplication in the types of projects receiving similar funding.

We believe that an open licensing requirement would improve the quality of educational resources and sustain innovations beyond the grant period by encouraging subject matter experts and other users to build upon the grant products and enriching the grant-funded content. We also expect that an open licensing requirement would stimulate innovation in the development of educational resources by encouraging commercial adaptation and derivatives and supporting large-scale adoption of grant products, even after the grant period.

We note that nothing in the proposed regulations would require a grantee to distribute work that a grantee would be required to openly license under proposed § 3474.20. In the *Invitation to Comment* section, we include specific questions to help inform us whether such a distribution requirement should be included in the final § 3474.20; or, alternatively, whether we should use non-regulatory approaches such as technical assistance and guidance to help facilitate distribution.

Section 3474.1 Adoption of 2 CFR Part 200

Current Regulations: Current § 3474.1 adopts 2 CFR part 200 but specifically excludes certain provisions from 2 CFR part 200 as being applicable under the Department's regulations.

Proposed Regulations: Proposed § 3474.1 would include, among these exceptions, 2 CFR 200.315(b). However, in proposed § 3474.20(d), we have retained the Federal government's royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so, provided through § 200.315(b).

Reasons: We propose to except § 200.315(b) from the Department's regulations because § 200.315(b) allows a non-Federal entity to copyright certain work developed under a Federal award, which is inconsistent with our proposed open licensing requirement. In order to have a consistent rule for how intellectual property developed with the Department's direct competitive grant funds is licensed, we need to add § 200.315(b) to the provisions within 2 CFR part 200 that are inapplicable under the Department's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards regulations.

We propose to retain the Federal government's royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so, in order to reserve the right to disseminate certain copyrightable intellectual property created with Department funds, if we determine that such action is the best way to make this content readily available. In the case of State administered or direct formula grant programs not covered by this proposed rule, the Department is exploring additional opportunities to expand dissemination of educational materials produced under those programs and to broaden dissemination of those materials to the public.

Under some direct competitive grants, the Department funds the costs of general operating expenses or the costs to provide support to individuals such as through scholarships or fellowship programs. In these cases, the Department's funding covers expenditures incurred to engage in activities not directly associated with the production of products, even though products are sometimes created. The open licensing requirement would not apply to these grantees, though they are encouraged to consider whether an open license would be appropriate or useful.

This open licensing requirement also does not apply to peer-reviewed research publications that arise from scientific research funded, either fully or partially, from grants awarded by the Institute of Education Sciences, since they are already covered by the Institute's existing public access policy.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that

might result from technological innovation or anticipated behavioral changes.''

We are issuing these proposed regulations only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that these proposed regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs associated with this regulatory action are those we have determined as necessary for administering the Department's programs and activities.

Summary of Potential Costs and Benefits

The open licensing requirement will not impose significant costs on entities that receive assistance through the Department's direct competitive grant programs. Application, submission, and participation in a competitive discretionary grant program are voluntary. The costs of meeting the requirements will be paid for with program funds and therefore will not be a burden for grantees, including small entities. While there are no significant costs, in some limited circumstances, there may be some instances of lost revenue or added costs related to the loss of commercial benefit derived from exclusive copyrights.

Under current regulations, grantees that create copyrightable works as part of a grant program retain unlimited rights to copyright and royalty income while the Department also retains a royalty-free, non-exclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use without cost, works created with Department grant funds for Federal Government purposes. These rights are assigned to the grantee at the time of the grant award and no further action is necessary to designate these rights. Grantees may establish terms and conditions that permit use and re-use of their works to any member of the public, for each instance of use or for each created work.

Proposed changes to the regulation would require that grantees openly license copyrightable works to enable the public to use the work without restriction, so long as they provide attribution to the grantee as the author of the works or the holder of the copyright and author, if different. While the type of license will differ depending on the type of work created, applying an open license to a grant product typically involves the addition of a brief license identification statement or insertion of a license icon. This could occur following the development of the product, at the same time that the disclaimer currently required under 34 CFR 75.620 is applied.

In this context, the proposed regulations could reduce commercial incentives for an eligible entity to apply to participate in a discretionary grant program. For example, under some competitive grant programs, grant recipients have produced materials that were subsequently sold or licensed to third parties, such as publishing companies or others in the field. Although an open license does not preclude the grantee or any individual from developing commercial products and derivatives from the grant funded material, it does remove the competitive advantage that these grantees currently possess as the exclusive copyright holder. In addition, publishers and other third parties may incur loss of revenue since their commercial product will potentially compete with freely available versions of a similar product. We note, however, that based on the Department's program offices' past grantmaking experiences, relatively few grantees develop and market copyrighted content paid for with Department funds.

However, the proposed regulations would result in significant benefits. The proposed policy would increase the Department's ability to be strategic with limited resources, encouraging diversity and non-duplication in the types of projects that receive funding. By encouraging subject matter experts and other users to build upon the grant products and enrich and update the content, this proposed regulation would ensure the quality and long-term sustainability of innovations created through grant funds.

The proposed regulations would also broaden the impact of the Department's investments, enabling broader and more effective dissemination of grant-funded works to the public. Department stakeholders, such as LEAs, SEAs, IHEs, students, and others beyond direct grant recipients would be able to freely use and access the technology and high-quality materials, promoting equity and especially benefiting resource-poor stakeholders.

For example, the Department's First in the World grant program currently requires grantees to openly license intellectual property. The online remediation tool being created by the Southern New Hampshire University under this grant program will help underprepared, underrepresented, and low-income working adults obtain a postsecondary credential and reduce the time to degree completion. Under the terms of the grant, the open license will allow any other IHE or adult education provider to use this tool to serve the working adults in its service areas, without incurring costs or duplicating efforts of development.

Under the proposed open licensing requirement, stakeholders will be able to more easily access resources that are created by the many other competitive discretionary grant programs at the Department. For example, the Department grantees have created educational materials, assessments, and technical assistance that support the needs of various special populations. These include grants by the Department's Office of Special Education Programs (OSEP) to create resources that support children, youth, and adults with disabilities. An open license would give broad permission for any member of the public to use, adapt, and widely redistribute the assistive technologies, resources for building inclusive communities, and training materials for specialized service personnel to the address particular needs of their own school or community, without the additional administrative burden of seeking permission from the grantee or copyright holder. Similarly, some grants by the Department's Office of Elementary and Secondary Education (OESE) support innovative approaches to literacy to promote reading skills. An open license on those professional development tools and reading resources would allow stakeholders and other members of the public to access and share resources to address the needs of the public beyond those known to the grantee or copyright holder.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

• Are the requirements in the proposed regulations clearly stated?

• Do the proposed regulations contain technical terms or other wording that interferes with its clarity?

• Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?

• Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§ '' and a numbered heading; for example, § 3474.20 Open Licensing Requirement for Direct Competitive Grant Programs.)

• Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?

• What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the **ADDRESSES** section.

Initial Regulatory Flexibility Act Analysis

This Initial Regulatory Flexibility Analysis presents an estimate of the effect on small entities of the proposed regulations. The U.S. Small Business Administration Size Standards define ''for-profit institutions'' as ''small businesses'' if they are independently owned and operated and not dominant in their field of operation with total annual revenue below $7,000,000, and defines ''non-profit institutions'' as small organizations if they are independently owned and operated and not dominant in their field of operation, or as small entities if they are institutions controlled by governmental entities with populations below 50,000. The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. We recognize that the proposed rule would eliminate the ability for a grantee to sell *copyrighted* content developed using the Department's funds. However, we do not believe many grantees would experience this potential loss of income, in part because relatively few grantees develop and market copyrighted content paid for with Department funds and in part because a grantee could still sell its openly licensed content under the proposed regulation. Additionally, there are other avenues of funding outside of the Department that can be pursued if a small entity is focused on profiting from the educational tools and resources it develops. Lastly, we believe that small entities as a whole may realize significant benefits from access to a vast array of openly licensed educational tools and resources under the proposed open-licensing rule. However, the Department acknowledges that it is difficult to quantify the impact of this proposed regulation on small entities and, therefore, the Secretary invites comments from such entities as to whether they believe the proposed changes would have a significant economic impact on them and, if so, requests evidence to support that belief.

Paperwork Reduction Act of 1995

These proposed regulations do not contain any information collection requirements.

Intergovernmental Review

These proposed regulations affect direct grant programs of the Department that are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Assessment of Educational Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e–4, the Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

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

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

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

List of Subjects in 2 CFR Part 3474

Accounting, Administrative practice and procedure, Adult education, Aged, Agriculture, American Samoa, Bilingual education, Blind, Business and industry, Civil rights, Colleges and universities, Communications, Community development, Community facilities, Copyright, Credit, Cultural exchange programs, Educational facilities, Educational research, Education, Education of disadvantaged, Education of individuals with disabilities, Educational study programs, Electric power, Electric power rates, Electric utilities, Elementary and secondary education, Energy conservation, Equal educational opportunity, Federally affected areas, Government contracts, Grant programs, Grant programs—agriculture, Grant programs—business and industry, Grant programs—communications, Grant programs—education, Grant programs—energy, Grant programs—health, Grant programs—housing and community development, Grant programs—social programs, Grant administration, Guam, Home improvement, Homeless, Hospitals, Housing, Human research subjects, Indians, Indians—education, Infants and children, Insurance, Intergovernmental relations, International organizations, Inventions and patents, Loan programs, Loan programs social programs, Loan programs—agriculture, Loan programs—business and industry, Loan programs—communications, Loan programs—energy, Loan programs—health, Loan programs—housing and community development, Manpower training programs, Migrant labor, Mortgage insurance, Nonprofit organizations, Northern Mariana Islands, Pacific Islands Trust Territories, Privacy, Renewable Energy, Reporting and recordkeeping requirements, Rural areas, Scholarships and fellowships, School construction, Schools, Science and technology, Securities, Small businesses, State and local governments, Student aid, Teachers, Telecommunications, Telephone, Urban areas, Veterans, Virgin Islands, Vocational education, Vocational rehabilitation, Waste treatment and

disposal, Water pollution control, Water resources, Water supply, Watersheds, Women.

Dated: October 28, 2015.

Arne Duncan,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary proposes to amend part 3474 of title 2 of the Code of Federal Regulations as follows:

PART 3474—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS.

■ 1. The authority citation for part 3474 continues to read as follows:

Authority: 20 U.S.C. 1221e–3, 3474, and 2 CFR part 200, unless otherwise noted.

§ 3474.1 [Amended]

■ 2. Section 3474.1(a) is amended by removing ''2 CFR 200.102(a) and 2 CFR 200.207(a)'' and adding, in its place, ''2 CFR 200.102(a), 200.207(a), and 200.315(b)''.

■ 3. Add § 3474.20 to read as follows:

§ 3474.20 Open licensing requirement for direct competitive grant programs.

For direct competitive grants awarded after [EFFECTIVE DATE OF THE FINAL REGULATIONS]:

(a) A grantee that is awarded direct competitive grant funds must openly license to the public new copyrightable materials created in whole, or in part, with Department grant funds and copyrightable modifications made to pre-existing content using Department grant funds, except as provided in paragraph (c) of this section. The license must be worldwide, non-exclusive, royalty-free, perpetual, and irrevocable, and must grant the public permission to access, reproduce, publicly perform, publicly display, adapt, distribute, and otherwise use, for any purposes, copyrightable intellectual property created with direct competitive grant funds, provided that the licensee gives attribution to the designated authors of the intellectual property. The licensee must also include the statement of attribution and disclaimer in 34 CFR 75.620(b).

(b) Except as provided in paragraph (c) of this section, a grantee that is awarded direct competitive grant funds must openly license all computer software source code developed or created with these grant funds under an intellectual property license that allows the public to freely use and build upon computer source code created or developed with these grant funds.

(c) The requirements of paragraphs (a) and (b) of this section do not apply to—

(1) Grants that provide funding for general operating expenses;

(2) Grants that provide support to individuals (*e.g.,* scholarships, fellowships); or

(3) Peer-reviewed research publications that arise from scientific research funded, either fully or partially, from grants awarded by the Institute of Education Sciences that are already covered by the Institute's public access policy found at *http://ies.ed.gov/funding/researchaccess.asp.*

(d) The Department reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

[FR Doc. 2015–27930 Filed 10–29–15; 11:15 am]

BILLING CODE 4000–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0271]

Drawbridge Operation Regulation; New River, Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating schedule that governs the Florida East Coast Railway (FEC) Railroad Bridge across the New River, mile 2.5, at Fort Lauderdale, FL. This proposed rule implements requirements for the operator designed to ensure that adequate notice of bridge closure times are available to the waterway traffic. It also changes the on demand schedule to an operating regulation requiring the bridge to be open at least 60 minutes in every 2 hour period. Modifying the bridge operating schedule will allow the bridge owner to operate the bridge remotely with assistance from the onsite bridge tender.

DATES: Comments and related material must reach the Coast Guard on or before December 3, 2015.

ADDRESSES: You may submit comments identified by docket number USCG–2015–0271 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Rod Elkins with the Coast Guard; telephone 305–415–6989, email *Rodney.J.Elkins@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking
§ Section Symbol
U.S.C. United States Code
FEC Florida East Coast Railway

A. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

B. Regulatory History and Information

From May 18 through October 16, 2015, a test deviation was in effect for the FEC Railroad Bridge (80 FR 28184). The comment period ended on 17 August 2015. There were eight comments received from the test deviation. Of these comments, three comments expressed opposition to a

future rail project, which we would like to emphasize, is not the focus of this proposed regulation. One comment opposed the proposed modification and recommended a schedule of four 15 minute openings every two hours. Based on input from the bridge owner and input gathered at Coast Guard public meetings, the Coast Guard determined that this is not a viable option because trains would have considerable difficulty coordinating passage across the bridge with this schedule. Additionally, it would not benefit waterway users, because the proposed regulation provides for the same minimum opening times in a two hour period, and it is more flexible because the bridge will remain open when trains are not crossing. The remaining four comments supported the proposed modification, but recommended minimum time limits to bridge openings. A temporary deviation was conducted and waterway users were satisfied with the operating schedule implemented, but requested a minimum time limit of 15 minutes for each opening. We refrained from specifying such limits because these limits would require the bridge to remain open for 15 minutes or more when less time may be adequate for vessel traffic to pass. For example, if the bridge was closed for a train crossing and another train was crossing five minutes later, the bridge would remain closed until the later train passed. Establishing a minimum amount of time for the bridge to remain open could unduly restrict the tender from conducting a short duration opening to allow a vessel through. The Coast Guard anticipates the proposed regulation will meet or exceed the recommended minimum time limits while allowing for more flexibility to accommodate vessel traffic.

One of the eight comments requested a public meeting. A public meeting was held on 12 November 2014, and the proposed schedule modification was developed from the input received from the public meeting.

C. Basis and Purpose

Presently, in accordance with 33 CFR 117.5, the FEC Railroad Bridge is required to open on signal for the passage of vessels.

Prior to implementing a test deviation on May 18, 2015, the Bridge operated without a tender or monitor. An automated system closed the Bridge when a train approached and reopened the Bridge when a train cleared. The Coast Guard received multiple complaints from mariners because there was no means of obtaining notice of bridge closure times or potential closure duration. The proposed schedule, discussed further below, balances the reasonable needs of waterway traffic on the New River with train traffic moving through condensed population areas such as Ft. Lauderdale where train schedules at the crossings cannot be precisely timed because of delays caused by train car loading and vehicular traffic crossing the track.

Also, train bridges must be in the down position well in advance of the train's arrival to ensure that it can safely navigate the bridge or stop if there are problems with the bridge. The purpose of this proposed regulation is to improve navigation on the New River through increased communications and closure time limits.

The FEC Railroad Bridge across the New River, mile 2.5, at Fort Lauderdale, FL is a single leaf bascule bridge. It has a vertical clearance of 4 feet at mean high water in the closed position and horizontal clearance of 60 feet. Traffic on the waterway includes both commercial and recreational vessels.

D. Discussion of Proposed Rule

This proposed rule is for the draw of the FEC Railroad Bridge across the New River, mile 2.5, at Fort Lauderdale, FL, to operate as follows:

(a) The bridge shall be tended constantly.

(b) The bridge tender will utilize a VHF–FM radio to communicate on channels 9 and 16 and may be contacted by telephone at 305–889–5572.

(c) Signs will be posted displaying VHF radio contact information and telephone numbers for the bridge tender and dispatch. A countdown clock giving notice of the time remaining before bridge closure shall be posted at the bridge site and visible for maritime traffic.

(d) A bridge log will be maintained including, at a minimum, bridge opening and closing times.

(e) When the draw is in the fully open position, green lights will be displayed to indicate that vessels may pass.

(f) When a train approaches, the lights flash red and a horn starts four blasts, pauses, and then continues four blasts, then the draw lowers and locks.

(g) After the train has cleared the bridge, the draw opens and the lights turn to green.

(h) The bridge shall not be closed more than 60 minutes combined for any 120 minute time period beginning at 12:01 a.m. each day.

(i) The bridge shall remain open to maritime traffic when trains are not crossing.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

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

This regulatory action is not a significant regulatory action because it will still allow vessels to pass through the bridge at more consistant intervals while taking into account the reasonable needs of other modes of transportation.

2. Impact on Small Entities

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

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels needing to transit the bridge may experience delays when the bridge is closed to allow train crossings. Vessels will still be allowed to transit this waterway but at more consistent and shorter intervals. This change in operating schedule will still meet the reasonable needs of navigation while taking into account other modes of transportation.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. In § 117.313, revise paragraphs (c), (d) and (e) to read as follows:

* * * * *

(c) The following requirements apply to the Florida East Coast Railway Railroad Bridge across the New River, mile 2.5, at Fort Lauderdale, FL:

1. The bridge shall be constantly tended.

2. The bridge tender will utilize a VHF–FM radio to communicate on channels 9 and 16 and may be contacted by telephone at 305–889–5572.

3. Signs will be posted displaying VHF radio contact information and telephone numbers for the bridge tender and dispatch. A countdown clock giving notice of time remaining before bridge closure shall remain at the bridge site and must be visible for maritime traffic.

4. A bridge log will be maintained including, at a minimum, bridge opening and closing times.

5. When the draw is in the fully open position, green lights will be displayed to indicate that vessels may pass.

6. When a train approaches, the lights go to flashing red and a horn starts four blasts, pauses, and then continues four blasts then the draw lowers and locks.

7. After the train has cleared the bridge, the draw opens and the lights return to green.

8. The bridge shall not be closed more than 60 minutes combined for any 120 minute time period beginning at 12:01 a.m. each day.

9. The bridge shall remain open to maritime traffic when trains are not crossing.

(d) Reserved

(e) The draw of the Marshal (Seventh Avenue) bridge, mile 2.7 at Fort Lauderdale shall open on signal; except

that, from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need not open. Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time.

Dated: October 22, 2015.

S.A. Buschman,

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

[FR Doc. 2015–27999 Filed 11–2–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 42

[Docket No.: PTO–P–2015–0053]

RIN 0651–AD01

Proposed Amendments to the Rules of Practice for Trials Before the Patent Trial and Appeal Board; Reopening of Period for Comments

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: The Leahy-Smith America Invents Act (AIA) provided for new administrative trial proceedings before the Patent Trial and Appeal Board (Board). The United States Patent and Trademark Office (USPTO) issued a number of final rules and a trial practice guide in August and September of 2012 to implement the new administrative trial provisions of the AIA. The USPTO published a request for comments in the **Federal Register** on June 27, 2014, seeking public comment on all aspects of the new administrative trial proceedings, including the administrative trial proceeding rules and trial practice guide. In response to comments received by the public, the USPTO issued a first, final rule, which was published on May 19, 2015. That final rule addressed issues concerning the patent owner's motion to amend and the petitioner's reply brief that involved ministerial changes. The USPTO issued a second, proposed rule that addresses more involved proposed changes to the rules concerning the claim construction standard for AIA trials, new testimonial evidence submitted with a patent owner's preliminary response, Rule 11-type certification, and word count for major briefing. The USPTO is now extending the period for public comment on the second, proposed rule until November 18, 2015.

DATES: Written comments on the proposed rule published August 20, 2015 (80 FR 50720) must be received on or before November 18, 2015.

ADDRESSES: Comments must be sent by electronic mail message over the Internet addressed to: *Trialrules2015@uspto.gov.*

Electronic comments submitted in plain text are preferred, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format. The comments will be available for viewing via the USPTO's Internet Web site (*http://www.uspto.gov*). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Susan L. C. Mitchell, Lead Administrative Patent Judge by telephone at (571) 272–9797.

SUPPLEMENTARY INFORMATION: Sections 3, 6, and 18 of the AIA provided for the following new Board administrative trial proceedings: (1) *Inter partes* review; (2) post-grant review; (3) covered business method patents review; and (4) derivation proceedings. Public Law 112–29, 125 Stat. 284 (2011). The USPTO issued a number of final rules and a trial practice guide in August and September of 2012 to implement the new administrative trial provisions of the AIA. *See Rules of Practice for Trials Before the Patent Trial and Appeal Board and Judicial Review of Patent Trial and Appeal Board Decisions,* 77 FR 48612 (Aug. 14, 2012) (final rule); *Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents,* 77 FR 48680 (Aug. 14, 2012) (final rule); *Transitional Program for Covered Business Method Patents—Definitions of Covered Business Method Patent and Technological Invention,* 77 FR 48734 (Aug. 14, 2012) (final rule); *Changes to Implement Derivation Proceedings,* 77 FR 56068 (Sept. 11, 2012) (final rule); and *Office Patent Trial Practice Guide,* 77 FR 48756 (Aug. 14, 2012).

In issuing the administrative trial proceeding rules and trial practice guide, the USPTO committed to revisiting the rules and practice guide once the Board and public had operated under the rules and practice guide for some period and had gained experience with the new administrative trial proceedings. The USPTO began the process of revisiting the AIA administrative trial proceeding rules and trial practice guide by engaging in a nation-wide listening tour. The USPTO conducted a series of roundtables in April and May of 2014, held in Alexandria, New York City, Chicago, Detroit, Silicon Valley, Seattle, Dallas, and Denver, to share information concerning the AIA administrative trial proceedings with the public and obtain public feedback on these proceedings. The USPTO also published a request for comments in the **Federal Register** on June 27, 2014, seeking public comment on all aspects of the new administrative trial proceedings, including the administrative trial proceeding rules and trial practice guide. *See Request for Comments on Trial Proceedings Under the America Invents Act Before the Patent Trial and Appeal Board,* 79 FR 36474–77 (June 27, 2014). In response to comments received, the USPTO issued two rule packages: (1) A first, final rule package that addressed issues concerning the patent owner's motion to amend and the petitioner's reply brief that involved ministerial changes, *see Amendments to the Rules of Practice for Trial Before the Patent Trial and Appeal Board,* 80 FR 28561–66 (May 19, 2015), and (2) a second, proposed rule that addresses more involved proposed changes to the rules concerning the claim construction standard for AIA trials, new testimonial evidence submitted with a patent owner's preliminary response, Rule 11-type certification, and word count for major briefing, *see Amendments to the Rules of Practice for Trials Before the Patent Trial and Appeal Board,* 80 FR 50720–47 (Aug. 20, 2015). The notice of proposed rulemaking for the second, proposed rule indicated that written comments must be received on or before October 19, 2015. *See id* at 50720. In view of stakeholder requests for additional time to submit comments on the new administrative trial proceedings, the USPTO is now extending the period for public comment until November 18, 2015.

Dated: October 26, 2015.

Michelle K. Lee,

Under Secretaray of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2015–28108 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–16–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2015–0546; A–1–FRL–9933–88–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Volatile Organic Compound Emissions From Large Aboveground Storage Tanks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. The revision amends Regulations of Connecticut State Agencies (RCSA) section 22a–174–20 to update the requirements for controlling volatile organic compound (VOC) emissions from large aboveground storage tanks. The intended effect of this action is to approve these regulations into the Connecticut SIP. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: Written comments must be received on or before December 3, 2015.

ADDRESSES: Submit your comments identified by Docket ID Number EPA–R01–OAR–2015–0546 for comments by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: mackintosh.david@epa.gov.*

3. *Fax:* (617) 918–0584.

4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2015–0546,'' David Mackintosh, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.

5. *Hand Delivery or Courier.* Deliver your comments to: David Mackintosh, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: David Mackintosh, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–02), Boston, MA 02109–3912, telephone 617–918–1584, facsimile 617–918–0584, email *mackintosh.david@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal 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. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment 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.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: August 27, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2015–27894 Filed 11–2–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0034; FRL–9936–36–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Federal Clean Air Act the Environmental Protection Agency (EPA) is approving revisions to the Oklahoma State Implementation Plan (SIP) submitted by the State of Oklahoma designee. The revisions are administrative in nature and modify redundant or erroneous text within the SIP. The revisions also incorporate new definitions and the current National Ambient Air Quality Standards for four criteria pollutants; delete a subchapter that addresses motor vehicle pollution control devices; and add requirements for certain incinerators.

DATES: Written comments should be received on or before December 3, 2015.

ADDRESSES: Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Paige, (214) 665–6521, *paige.carrie@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, the EPA is approving the State's SIP submittals as a direct rule without prior proposal because the Agency views these as noncontroversial submittals and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If the EPA receives relevant 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. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: October 20, 2015.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2015–27917 Filed 11–2–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2014–0237; FRL–9936–46–Region 6]

Approval and Promulgation of Implementation Plans; New Mexico; Regional Haze Five-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a revision to a State Implementation Plan (SIP) submitted by the State of New Mexico through the New Mexico Environment Department (NMED) on March 14, 2014. New Mexico's SIP revision addresses requirements of the Clean Air Act (CAA) and the EPA's rules that require states to submit periodic reports describing progress toward reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the State's existing regional haze SIP (RH SIP).

DATES: Comments must be received on or before December 3, 2015.

ADDRESSES: Submit comments, identified by Docket No. EPA–R06–OAR–2014–0237, by one of the following methods:

- *www.regulations.gov.* Follow the online instructions.
- *Email:* Mr. Guy Donaldson at *donaldson.guy@epa.gov*

Mail or Delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct comments to Docket No. EPA–R06–OAR–2014–0237. The EPA's policy is that all comments received will be included in the public docket without change and made available online at *www.regulations.gov.* The EPA includes any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit any information electronically that is considered CBI or any other information whose disclosure is restricted by statute. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know one's identity or contact information unless it is provided in the body of a comment. If a comment is emailed directly to the EPA without going through *www.regulations.gov,* then the sender's email address will automatically be captured and included as part of the public docket comment and made available on the Internet. If a comment is submitted electronically, then it is recommended that one's name and other contact information be included in the body of the comment, and with any disk or CD–ROM submitted. If the EPA cannot read a particular comment due to technical difficulties and is unable to contact for clarification, the EPA may not be able to consider the comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment will be considered the official comment with multimedia submissions and should include all discussion points desired. The EPA will generally not consider comments or their contents submitted outside of the primary submission (*i.e.* on the web, cloud, or other file sharing systems). For additional information on submitting comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

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

The New Mexico regional haze progress report is available online at the following: *www.nmenv.state.nm.us/aqb/reghaz/regional-haze_index.html.* It is also available for public inspection during official business hours, by appointment, at the Air Quality Bureau, Environmental Protection Division, New Mexico Environment Department, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico 87505.

FOR FURTHER INFORMATION CONTACT: Mr. James E. Grady, (214) 665–6745; *grady.james@epa.gov.* To inspect the hard copy materials, please contact Mr. Grady or Mr. Bill Deese at (214) 665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''our,'' or ''us'' each mean ''the EPA.''

Table of Contents

I. Background on Regional Haze

Regional haze is visibility impairment that occurs over a wide geographic area primarily from the pollution of fine particles ($PM_{2.5}$) [1] in nature. Fine particles causing haze consist of sulfates, nitrates, ammonium, particulate organic matter, black carbon, and soil dust. Airborne $PM_{2.5}$ can scatter and absorb the incident light and therefore lead to atmospheric opacity and horizontal visibility degradation. Regional haze limits visual distance and reduces color, clarity and contrast of view. Emissions that affect visibility include a wide variety of natural and man-made sources. In New Mexico, the most important sources of haze-forming emissions are coal-fired power plants, oil and gas development, woodland fires, and windblown dust. Reducing $PM_{2.5}$ and their precursor gases in the atmosphere is an effective method of improving visibility. $PM_{2.5}$ precursors consist of sulfur dioxide (SO_2), nitrogen oxides (NO_X), ammonia (NH_3) and volatile organic compounds (VOCs).

II. Background on Regional Haze SIPs

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the prevention of any future, and the

[1] Additionally, coarse particles (PM_{10}) can contribute to light extinction. However, they settle out from the air more rapidly than fine particles and usually will be found relatively close to emission sources. Fine particles can be transported long distances by wind and can be found in the air thousands of miles from where they were formed.

remedying of any existing man-made impairment of visibility in 156 national parks and wilderness areas designated as mandatory Class I Federal areas.[2] On December 2, 1980, the EPA promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, *i.e., ''*reasonably attributable visibility impairment.''[3] These regulations represented the first phase in addressing visibility impairment. The EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues, and the EPA promulgated regulations addressing regional haze in 1999.[4] The Regional Haze Rule revised the existing visibility regulations to integrate into the regulations provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in the EPA's visibility protection regulations at 40 CFR 51.300–309. States must demonstrate reasonable progress toward meeting the national goal of a return to natural visibility conditions for mandatory Class I Federal areas both within and outside states by 2064. The requirement to submit a regional haze SIP applies to all fifty states, the District of Columbia, and the Virgin Islands. States were required to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.[5]

III. Requirements for the Five-Year Regional Haze Progress Report SIP

The Regional Haze Rule requires a comprehensive analysis of each state's regional haze SIP every ten years and a progress report every five years. This five-year review is intended to provide a progress report on, and, if necessary, mid-course corrections to, the regional haze SIP. The progress report provides an opportunity for public input on the State's (and the EPA's) assessment of whether the approved regional haze SIP is being implemented appropriately and whether reasonable visibility progress is being achieved consistent with the projected visibility improvement in the SIP. At a minimum, New Mexico must include in its progress report the following seven elements:[6]

(1) Provide a description of the status of implementation of all control measures in the approved RH SIP.

(2) Summarize the emissions reductions achieved through implementation of the control measures.

(3) Assess the visibility conditions and changes for each Class I area in the State.

(4) Analyze the changes in emissions from sources and activities within the State.

(5) Provide an assessment of any significant changes in anthropogenic emissions within or outside the State that have limited or impeded progress in reducing emissions and improving visibility in Class I areas.

(6) Evaluate the sufficiency of the approved RH SIP to meet all RPGs.

(7) Provide a review of the State's visibility monitoring strategy.

New Mexico submitted their progress report SIP for the State[7] under 40 CFR 51.309.[8] Typically, progress report requirements of most states are covered under 40 CFR 51.308(g) and (h). However, 40 CFR 51.309 presents nine western states with an optional approach of fulfilling Regional Haze Rule requirements by adopting emission reduction strategies developed by the Grand Canyon Visibility Transport Commission (GCVTC). These strategies were designed primarily to improve visibility of sixteen Class I areas in the Colorado Plateau[9] area. Since New Mexico currently has one Class I area, the San Pedro Parks Wilderness Area, inside the Colorado Plateau, the State exercised the option to meet the alternative requirements contained in 40 CFR 51.309 for RH SIPs. The requirements for five-year progress reports are consistent with those for the other states, but the requirements for the reports are codified at 40 CFR 51.309(d)(10) instead of at 40 CFR 51.308(g) and (h). Also, under 40 CFR 51.309(d)(10)(i), states must submit a regional haze progress report in the years 2013 and 2018. In contrast, under 40 CFR 51.308, states must submit a progress report five years from submittal of the initial implementation plan. Under 40 CFR 51.309(d)(10)(ii), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing RH SIP and to take one of four possible actions, as described in more detail in this proposal.

IV. Evaluation of New Mexico's Regional Haze Progress Report SIP

On December 31, 2003, the State of New Mexico submitted a RH SIP with later SIP revisions (July 5, 2011 and October 7, 2013) that addressed the requirements of 40 CFR 51.309.[10] On March 14, 2014, the EPA received the periodic report on progress from NMED in the form of a regional haze SIP

[2] Areas designated as mandatory Class I Federal areas consist of National Parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' 42 U.S.C. 7602(i). When we use the term ''Class I area'' in this action, we mean a ''mandatory Class I Federal area.''

[3] 45 FR 80084 (December 2, 1980).

[4] 64 FR 35714 (July 1, 1999), codified at 40 CFR part 51, subpart P (Regional Haze Rule).

[5] See 40 CFR 51.308(b). EPA's regional haze regulations require subsequent updates to the regional haze SIPs. 40 CFR 51.308(g)–(i).

[6] See 40 CFR 51.309(d)(10)(i)

[7] The proposed action does not pertain to the Albuquerque/Bernalillo County portion of the SIP in New Mexico. The New Mexico Air Quality Control Act (section 74–2–4) authorizes Albuquerque/Bernalillo County to locally administer and enforce the State Air Quality Control Act by providing for a local air quality control program, and that entity submitted an initial RH SIP for its own jurisdiction that was separately approved by the EPA (77 FR 71119, November 29, 2012). The EPA anticipates a separate RH progress report SIP submittal from this entity.

[8] Three Western States (New Mexico, Utah and Wyoming) exercised the option provided in the Regional Haze Rule to meet the alternative requirements contained in 40 CFR 51.309 for RH SIPs.

[9] The Colorado Plateau is a high, semi-arid tableland in Southeast Utah, Northern Arizona, Northwest New Mexico, and Western Colorado. The sixteen mandatory Class I areas are as follows: Grand Canyon National Park, Mount Baldy Wilderness, Petrified Forest National Park, Sycamore Canyon Wilderness, Black Canyon of the Gunnison National Park Wilderness, Flat Tops Wilderness, Maroon Bells Wilderness, Mesa Verde National Park, Weminuche Wilderness, West Elk Wilderness, San Pedro Parks Wilderness, Arches National Park, Bryce Canyon National Park, Canyonlands National Park, Capital Reef National Park, and Zion National Park.

[10] The EPA approved all of the 2003 and 2011 submittals on November 27, 2012 (77 FR 70693) except for the submitted NO_X Best Available Retrofit Technology (BART) determination for the San Juan Generating Station (SJGS). The EPA had issued a Federal Implementation Plan (FIP) containing a different NO_X BART determination for the SJGS. 76 FR 52,388 (Aug. 22, 2011). The 2013 RH SIP revision contained a new NO_X BART determination for the SJGS that superseded the State's previous NO_X BART determination included in the 2011 RH SIP revision. The EPA withdrew the FIP and approved the 2013 RH SIP revision on October 9, 2014 (79 FR 60985 and 79 FR 60978)

revision. This latest submission is the subject of this proposed approval. The periodic report was made in the first implementation period toward RPGs for Class I areas in and outside the State that were affected by emissions from New Mexico's sources. The SIP revision includes the State's determination that the existing RH SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. The EPA is proposing to approve New Mexico's progress report SIP on the basis that it satisfies the requirements of 40 CFR 51.309(d)(10).

New Mexico has nine Class I areas within its borders: Bandelier Wilderness, Bosque del Apache National Wildlife Refuge, Carlsbad Caverns National Park, Gila Wilderness, Pecos Wilderness, Salt Creek Wilderness, Wheeler Peak Wilderness, White Mountain Wilderness, and San Pedro Parks Wilderness. San Pedro Parks Wilderness is the only Class I area in New Mexico that is located on the Colorado Plateau.[11] Visibility impairment at New Mexico's nine Class I areas is tracked in units of deciviews (dv), which is related to the cumulative sum of visibility impairment from individual aerosol species as measured by eight monitors in the Interagency Monitoring of Protected Visual Environments (IMPROVE) Network.[12]

Through collaboration with the Western Regional Air Partnership (WRAP),[13] New Mexico worked with the western states to assess state-by-state contributions to visibility impairment in specific Class I areas in New Mexico and those affected by emissions from New Mexico. The WRAP report provides data on other, less pertinent Class I areas outside New Mexico borders, and this information primarily appears in the technical appendices.[14]

The following sections cover:

- The seven regulatory elements required by the progress report SIP; [15]
- How New Mexico's progress report SIP addressed each element; and
- The EPA's analysis and proposed determination as to whether New Mexico satisfied each part.

A. Status of Control Strategies

40 CFR 51.309(d)(10)(i)(A) requires a description of the status of implementation of all control measures included in the RH SIP for achieving RPGs for Class I areas both within and outside the State.

New Mexico stated in the progress report that it is implementing all long-term control strategies, with the exception of the state adopted State Mobile Source Regulation.[16] The State Mobile Source Regulation, when adopted, sought to apply California motor vehicle standards within New Mexico, and this regulation, while mentioned in the State's long-term strategy, was not submitted to EPA as a SIP revision. The report explains that federal programs, as revised, achieve the same emission reductions and have provided the State a basis, in its judgment, for not implementing the regulation. The EPA considers this explanation acceptable.

New Mexico evaluated the status of all measures included in its RH SIP in accordance with the requirements under 40 CFR 51.309(d)(10)(i)(A). The major control measures identified by New Mexico in the progress report RH SIP are as follows:

- Best Available Retrofit Technology (BART)
- SO_2 Milestone and Backstop Trading Program
- Agricultural and Forestry Smoke Management Techniques
- Additional Controls—State Air Regulations: New Source Review (NSR) and Prevention of Significant Deterioration (PSD)

In its initial RH SIP, New Mexico identified ammonium sulfate, particulate organic matter, and coarse mass as the largest contributors to visibility impairment. Many of the contributing sources to visibility impairment in New Mexico are natural, rather than anthropogenic in nature, and are not controllable. The primary sources of ammonium sulfate are point sources and on- and off-road mobile source emissions. For particulate organic matter, the primary sources of emissions are from natural and anthropogenic fire. The primary sources of coarse mass emissions in New Mexico are windblown and fugitive dust. For the progress report, New Mexico focused on those emission sources that were anthropogenic in nature.

The progress report stated that the emissions reductions from implementing the major control measures would ensure that the New Mexico Class I areas would achieve the RPGs. New Mexico included a summary of the implementation status associated with each control measure and quantified the benefits where possible. When comparing baseline to current visibility conditions, the progress report showed that New Mexico is currently on track, if not exceeding, the visibility impairment emission reductions needed to achieve RPG's for 2018.[17]

1. Best Available Retrofit Technology (BART)

New Mexico identified one single stationary source in the progress report SIP, the San Juan Generating Station (SJGS), to be subject to BART. The SJGS includes four coal-fired boilers. In the New Mexico 2013 RH SIP, New Mexico determined that the BART controls for boiler units 1 and 4 will have selective non-catalytic reduction (SNCR) air pollution control devices installed for visibility-impairing pollutant reduction. Consistent with the terms in the State's then-pending SIP revision, the report assumed future installation of controls would occur fifteen months following approval of the revised RH SIP (but not earlier than January 31, 2016).[18] Additionally, the remaining two boiler units, 2 and 3, would be retired by the end of 2017. New Mexico estimated that implementation of the BART controls at SJGS would result in NO_X reduction of approximately 13,000 tons per year (tpy) (from 21,000 tpy to 8,011 tpy); SO_2 reduction of 6,600 tpy (from 10,500 tpy

[11] The Section 309 SIP submitted by the State of New Mexico in December of 2003 addresses only San Pedro Parks Wilderness Area. All of the other Class I areas are addressed under the Section 309(g) SIP submitted by the State of New Mexico in June of 2011 and as revised and submitted in October of 2013.

[12] The IMPROVE monitor for the Wheeler Peak Wilderness Area is used to represent visibility conditions at the nearby Pecos Wilderness. The IMPROVE monitor for Carlsbad Caverns is located in Texas at Guadalupe Mountains National Park.

[13] The WRAP is a collaborative effort of tribal governments, state governments and various federal agencies representing the western states that provides technical and policy tools for the western states and tribes to comply with the EPA's Regional Haze regulations. Detailed information regarding WRAP support of air quality management issues for western states is provided on the WRAP Web site (*www.wrapair2.org*). Data summary descriptions and tools specific to Regional Haze Rule support are available on the WRAP Technical Support System Web site (*http://vista.cira.colostate.edu/tss/*).

[14] The *Western Regional Air Partnership Regional Haze Rule Reasonable Progress Summary Report* technical support document has been prepared on behalf of the fifteen Western State members in the WRAP region to provide the technical basis for use by states to develop the first of their individual reasonable progress reports for the 116 Federal Class I areas located in the Western states.

[15] See 40 CFR 51.309(d)(10)(i).

[16] Under 40 CFR 51.309(d)(5)(ii), New Mexico is required to submit interim reports to the EPA and the public on the implementation status of the regional and local strategies to address mobile source emissions.

[17] See table 2.1 of New Mexico Regional Haze progress report SIP. A complete copy of the progress report SIP is available in the online docket for this proposal.

[18] Subsequent to the submission of the New Mexico progress report SIP, the EPA withdrew the FIP and approved the 2013 RH SIP revision on October 9, 2014 (79 FR 60985 and 79 FR 60978).

to 3,843 tpy); and particulate matter (PM) reduction of 1,200 tpy (from 2,380 tpy to 1,184 tpy). These reductions represent a 35% reduction in the statewide emissions of NO_X, SO_2, and PM.

The EPA finds that the progress report SIP adequately reviews the status of New Mexico's BART source. It identifies the controls to be applied; outlines the compliance timeframe for those controls; and shows potential reduction in visibility-impairing pollutants with future BART implementation.

2. SO_2 Milestone and Backstop Trading Program

The progress report SIP discusses the SO_2 Milestone and Backstop Trading Program [19] as a control measure. New Mexico has participated in this voluntary program since December 31, 2003. New Mexico must submit an annual report that compares tracked stationary source SO_2 emissions to yearly milestones. A milestone is an established maximum level of annual emissions for a given year (from 2003 to 2018). The milestones help establish annual SO_2 emission reduction targets. The annual targets represent RPGs in reducing visibility-impairing emissions. If states fail to meet the milestones, then the backstop-trading program is triggered to implement an emissions cap. The cap allocates emission allowances (or credits) to the affected sources based on the cap, and requires the sources to hold sufficient allowances to cover their emissions each year.

Appendix B of the progress report SIP includes the 2011 Regional SO_2 Emissions and Milestone Report. The 2011 milestone is 200,722 tons SO_2, which represents the average regional emissions milestone for the years 2009, 2010, and 2011. The average of 2009, 2010, and 2011 adjusted emissions was determined to be 130,935 tons SO_2. New Mexico and participating States have met the 200,722 tons SO_2 milestone. Emissions were about 35% below the 2011 three-State regional milestone.

3. Agricultural and Forestry Smoke Management Techniques [20]

The progress report SIP affirms that New Mexico developed a state Smoke Management Plan (SMP) to be used as a control measure. The EPA previously approved smoke management rules into the SIP in 2012, which protect the health and welfare of New Mexicans from the impacts of smoke from all sources of fire.[21]

4. Additional Controls—State Air Regulations: NSR and PSD

The progress report affirms that New Mexico continues to implement the State's NSR program and asserts that state regulations are up to date with 40 CFR 51.166. NSR applies to all construction permitting for new stationary sources under the CAA, for attainment or non-attainment areas.[22]

Likewise, New Mexico implements the State's PSD program, as has been the case since 1982. PSD is the NSR program for new major [23] stationary sources and major modifications in attainment areas. The program minimizes new pollution and utilizes best available control technology (BACT) to reduce visibility-impairing pollutants and prevent deterioration of Class I areas.[24]

Both PSD and BART protect Class I area visibility in the same way. BART and PSD are complementary programs aimed at regulating the same source categories; either one or the other applies depending upon when the source was constructed. PSD was adopted in 1977 for all new major sources. BART is applied to pre-PSD, to address visibility impacts from existing major sources built 1962 to 1977. BART only addresses visibility, whereas PSD addresses NAAQS, increment consumption, and visibility.

5. Summary of Control Strategy Implementation

The EPA proposes to conclude that New Mexico adequately addressed the status of control measures in its progress report RH SIP as required by the provisions under 40 CFR 51.309(d)(10)(i)(A). All major control measures (including BART) were identified and the emission reduction strategy behind each control was explained. New Mexico included a summary of the implementation status associated with each control measure and quantified the benefits where possible. In addition, the progress report SIP adequately outlined the compliance timeframe for all controls.

B. Emissions Reductions From Control Strategies

40 CFR 51.309(d)(10)(i)(B) requires a summary of the emission reductions achieved throughout the State through implementation of control measures mentioned in 40 CFR 51.309(d)(10)(i)(A). The progress report must identify and estimate emissions reductions to date in visibility-impairing pollutants from the SIP control measures identified for implementation.

New Mexico reported in figure 3.6 of the progress report SIP that NO_X, SO_2, and PM point source emissions decreased in New Mexico from 2008 to 2012. Approximated NO_2 emissions reduced from 63,000 tpy to 44,000 tpy, constituting an emission reduction of about 30%. Approximated SO_2 emissions reduced from 26,000 tpy to 15,000 tpy, constituting an emission reduction of about 42%. As compared to NO_2 and SO_2, PM emissions represent a small part of the State's emissions inventories, and PM reductions are not especially pronounced. Figure 3.6 shows that actual point source emissions for NO_2 and SO_2 decreased below the WRAP's projected 2018 point-source emissions that helped establish New Mexico's RPGs for the first planning period. In reviewing the point source data, the EPA compared it to that reported by the Clean Air Markets Division (CAMD) and found that the

[19] Under Section 309 of the Federal Regional Haze Rule, nine western states and tribes within those states have the option of submitting plans to reduce regional haze emissions that impair visibility at 16 Class I areas on the Colorado Plateau. Five states—Arizona, New Mexico, Oregon, Utah, and Wyoming—and Albuquerque-Bernalillo County initially exercised this option by submitting plans to the EPA by December 31, 2003. Oregon elected to cease participation in the program in 2006 and Arizona elected to cease participation in 2010. The tribes were not subject to the deadline and still can opt into the program at any time.

[20] The EPA approved 20.2.65 NMAC, Smoke Management and 20.2.60 NMAC Open Burning, on November 27, 2012 (77 FR 70693) in the same action approving the 2011 New Mexico RH SIP.

[21] Several WRAP policies developed by the GCVTC were used to guide the development of the New Mexico SMP program: The WRAP Policy for Characterizing Fire Emissions shows a methodology to categorize fire emissions as either natural or anthropogenic. The WRAP Policy on Enhanced Smoke Management Programs for Visibility identifies and enhanced SMP to address visibility effects from all types of fire that contribute to visibility impairment in mandatory Federal Class I areas. The WRAP Policy on Annual Emissions Goals for Fire outlines a process by which states/tribes may establish annual emission goals, based on the utilization of currently available emission reduction techniques, to include in their RH SIPs.

[22] The NSR program is established by 20.2.72 NMAC. *http://164.64.110.239/nmac/parts/title20/20.002.0072.htm.*

[23] ''Major'' means emitting or having the potential to emit 100 tpy or more of any criteria pollutant for the specific source categories listed in the PSD regulations. There are 28 listed source categories, which include power plants that use steam to generate electricity, petroleum refineries and glass fiber processing plants. If a plant does not fall into one of the listed source categories, then a threshold of 250 tpy applies. BART addresses certain sources that have the potential to emit 250 tpy or more of a single visibility-impairing pollutant.

[24] The most recent approval of New Mexico's PSD program was on 12/11/2013 (see 78 FR 75253). PSD is established by 20.2.74 NMAC. *http://164.64.110.239/nmac/parts/title20/20.002.0074.htm.*

reported emissions were consistent with that data.[25]

New Mexico explained that the most significant decrease in emissions since the RH SIP revision in June 2011 has been from SO_2 in accordance with the State's SO_2 Milestone and Backstop Trading Program. SO_2 emissions were about 35% below the 2011 three-state regional milestone.

Part of the observed emission reductions were also the result of controls installed at SJGS completed in 2009 in response to a 2005 consent decree. Future emission reductions to satisfy BART at SJGS will also occur during this planning period, resulting in a significant reduction in total point source emissions in the State. New Mexico estimated that implementation of the BART controls at SJGS would result in NO_X reduction of approximately 13,000 tons per year (tpy) (from 21,000 tpy to 8,011 tpy); SO_2 reduction of 6,600 tpy (from 10,500 tpy to 3,843 tpy); and particulate matter (PM) reduction of 1,200 tpy (from 2,380 tpy to 1,184 tpy). These reductions represent a 35% reduction in the statewide emissions of NO_X, SO_2, and PM. Statewide emissions are significantly below the 2018 projected levels relied upon in the 2011 RH SIP. Therefore, New Mexico does not expect reasonable progress to be adversely impacted in any of the Class I areas in New Mexico or neighboring states.

Additional control measures included in the SIP were federal and state programs (NSR, PSD, and SMP programs). Qualitatively, the continued implementation of those federal and state measures is expected to continue to reduce emissions. Deciview and aerosol extinction maps provided by New Mexico illustrate both a decrease in magnitude of visibility impairment and relative pollutant contribution in New Mexico and surrounding states for 2005–2009.[26]

The EPA proposes to conclude that New Mexico has adequately summarized the emission reductions achieved throughout the State in its progress report RH SIP as required under 40 CFR 51.309(d)(10)(i)(B). In meeting this requirement, the EPA does not expect states to quantify emission reductions for measures which have not yet been implemented or for which the compliance date has not yet been reached. However, for purposes of future progress reports, we recommend that New Mexico include additional quantitative details on the reductions of each major specific visibility-impairing pollutant and utilize available CAMD data, as appropriate.

C. Visibility Progress

40 CFR 51.309(d)(10)(i)(C) requires that for each mandatory Class I Federal area within the State, the State must assess the following visibility conditions and changes, with values for most impaired and least impaired days[27] expressed in terms of five-year averages of these annual values:

1. Assess the current visibility conditions for the most impaired and least impaired days.

2. Analyze the difference between current visibility conditions for the most impaired and least impaired days and baseline visibility conditions.

3. Evaluate the change in visibility impairment for the most impaired and least impaired days over the past five years.

New Mexico provided visibility data for 2000 through 2011 that addressed the three requirements of 40 CFR 51.309(d)(10)(i)(C) for Class I areas in New Mexico. Much of the analysis and visibility data presented in the New Mexico progress report SIP were taken from the *RHR Reasonable Progress Summary Report* prepared by the WRAP.

This section requires the report to include deciview values for three separate periods: Baseline visibility conditions, current visibility conditions, and visibility conditions of the past five years. Baseline visibility conditions refer to conditions identified in initial RH SIPs for the 2000–2004 period. Current visibility conditions refer to the most recent five-year average data available at the time the State submitted its progress report. The past five years would be five years before the year used for current visibility conditions.[28]

New Mexico calculated the five-year baseline visibility conditions for 2000–2004; successive five-year average visibility conditions for 2005–2009; and the most recent visibility conditions for 2007–2011. The change in baseline and current visibility was compared to the change in baseline and past five-year visibility.[29] Both results were tabulated for the 20% worst and best days and compared to 2018 RPGs.[30] The most recent data from 2007–2011 in the progress report SIP were not addressed. The EPA provided a comparison of the 2007–2011 data in table 2, below, showing that progress, while trending toward further visibility improvement, was not quite as good as in the 2005–2009 period.

TABLE 2—VISIBILITY CONDITIONS AT NEW MEXICO CLASS I AREAS

Class I Area	Baseline (2000–2004) (dv)	2005–2009 (dv)	Visibility improvement over baseline (2005–2009) (dv) *	2007–2011 (dv)	Visibility improvement over baseline (2007–2011) (dv) *	2018 RPGs (dv)	Visibility improvement needed over baseline for 2018 RPGs (dv) *
20% Worst Days							
Bandelier	12.2	11.8	0.4	12.0	0.2	11.9	0.3
Bosque del Apache	13.8	13.4	0.4	13.1	0.7	13.59	0.21
Gila Wilderness	13.1	12.5	0.6	11.3	1.8	12.99	0.11
Carlsbad Caverns	17.2	15.9	1.3	15.3	1.9	16.93	0.27
Salt Creek	18.0	17.5	0.5	17.3	0.7	17.33	0.67
San Pedro Parks	10.2	9.9	0.3	10.1	0.1	9.8	0.4
Wheeler Peak	10.4	9.1	1.3	9.6	0.8	10.23	0.17

[25] See the Technical Support Document (TSD), ''Evaluation of State Emission Trends Analysis,'' a copy of which is posted in the docket for this proposal.

[26] See Figures 3.1 through 3.5 of progress report SIP.

[27] The ''most impaired days'' and ''least impaired days'' in the regional haze rule refers to the average visibility impairment (measured in deciviews) for the 20% of monitored days in a calendar year with the highest and lowest amount of visibility impairment, respectively, averaged over a five-year period. *See* 40 CFR 51.301.

[28] *General Principles for the 5-Year Regional Haze Progress Reports for the Initial Regional Haze State Implementation Plans (Intended to Assist States and EPA Regional Offices in Development and Review of the Progress Reports),* EPA, April 2013.

[29] New Mexico also included 2006 to 2010 data, but it was not included in table 2.

[30] See Tables 3.3 through 3.20 of the New Mexico progress report SIP.

TABLE 2—VISIBILITY CONDITIONS AT NEW MEXICO CLASS I AREAS—Continued

Class I Area	Baseline (2000–2004) (dv)	2005–2009 (dv)	Visibility improvement over baseline (2005–2009) (dv) *	2007–2011 (dv)	Visibility improvement over baseline (2007–2011) (dv) *	2018 RPGs (dv)	Visibility improvement needed over baseline for 2018 RPGs (dv) *
White Mountain	13.7	13.2	0.5	13.9	−0.2	13.27	0.43
20% Best Days							
Bandelier	5.0	4.2	0.8	3.9	1.1	4.89	0.11
Bosque del Apache	6.3	5.8	0.5	5.5	0.8	6.1	0.2
Gila Wilderness	3.3	2.7	0.6	2.4	0.9	3.2	0.1
Carlsbad Caverns	5.9	5.4	0.5	4.9	1.0	6.14	
Salt Creek	7.8	7.3	0.5	6.9	0.9	7.43	0.37
San Pedro Parks	1.5	1.0	0.5	1.0	0.5	1.2	0.3
Wheeler Peak	1.2	0.9	0.3	0.9	0.3	1.13	0.07
White Mountain	3.6	3.3	0.3	3.3	0.3	3.42	0.18

* Negative Visibility Improvement means an increase above the baseline values, indicating that visibility has worsened.

All Class I areas show visibility improvement over the baseline through the first progress period (2005–2009). In addition, all Class I sites were below the 2018 RPGs for the first progress period except for San Pedro Parks and Salt Creek. The five-year average deciview trends for 2007–2011 progress period achieved visibility improvement for all Class I areas except White Mountain, which got slightly worse by 0.2 dv. All but three sites met the 2018 RPGs during the 2007–2011 period.

The EPA proposes to conclude that New Mexico has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(C) to include summaries of monitored visibility data as required by the Regional Haze Rule. For purposes of improved clarity on future reports, the EPA recommends that New Mexico include a graph of rolling averages similar to what was provided in the guidance example,[31] illustrating the uniform glide path. The glide path graphically shows what would be a uniform rate of progress, toward meeting the national goal of a return to natural visibility conditions by 2064 for each Class I area.

D. Emissions Progress

40 CFR 51.309(d)(10)(i)(D) requires an analysis tracking the change over the past five years in emissions of pollutants contributing to visibility impairment from all sources and activities within the State. Emission changes should be identified by type of source or activity. The analysis must be based on the most recent updated emissions inventory, with estimates projected forward as necessary and appropriate, to account for emissions changes during the applicable five-year period. The EPA evaluated New Mexico's analysis and more detail is provided in the Technical Support Document for this action.

The EPA proposes to conclude that New Mexico has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(D) to track changes in emissions of pollutants contributing to visibility impairment from all sources and activities within the State. The analysis in this progress report was based on appropriate available data with sufficient forward projections.

E. Assessment of Changes Impeding Visibility Progress

40 CFR 51.309(d)(10)(i)(E) requires an assessment of any significant changes in anthropogenic emissions within or outside the State that have occurred over the past five years that have limited or impeded progress in reducing pollutant emissions and improving visibility in Class I areas impacted by the State's sources.

New Mexico stated in the progress report SIP that there does not appear to be any anthropogenic emissions within New Mexico that would have limited or impeded progress in reducing pollutant emissions or improving visibility. New Mexico stated that SO_2 and PM were the major visibility-impairing concerns on the 20% worst days. Stationary point sources were the greatest contributor of SO_2 while fire, including natural and anthropogenic, was the greatest PM contributor. Both of these pollutants were covered by long-term control measures described in the progress report SIP (BART, SMP, and SO_2 Milestone and Backstop Trading Program). Other states relied on WRAP modeling to show reasonable progress at their Class I areas. With the BART determination of a two-unit shut down and two-unit SNCR installation for the SJGS, New Mexico will be exceeding the modeled levels relied on by WRAP for regional haze. Therefore, New Mexico is not impeding other states in meeting their RPGs, and is decreasing visibility-impairing pollutants more than was anticipated in the WRAP modeling for NO_X, SO_2 and PM.

The EPA proposes to find that New Mexico has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(E) to show that the major contributors of anthropogenic emissions are being reduced and visibility is improving at a uniform rate without having limited or impeded progress.

F. Assessment of Current Strategy To Meet RPGs

40 CFR 51.309(d)(10)(i)(F) calls for an assessment of whether the current implementation plan elements and strategies in the RH SIP are sufficient to enable the State, or other states with mandatory Federal Class I areas affected by emissions from the State, to meet all established RPGs.

New Mexico stated in the progress report SIP that the elements and strategies outlined in its RH SIP are sufficient to enable New Mexico and other neighboring states to meet all the established RPGs. To support this conclusion, New Mexico referenced visibility data[32] that showed five-year average deciview trends for the 20% worst and best days for the baseline period (2000–2004); subsequent five-

[31] See page 10 of *General Principles for the 5-Year Regional Haze Progress Reports for the Initial Regional Haze State Implementation Plans (Intended to Assist States and EPA Regional Offices in Development and Review of the Progress Reports)* April 2013.

[32] In Appendix C of Regional Haze Progress Report SIP.

year visibility conditions (2005–2009); and the most recent five-year visibility conditions (2007–2011). All Class I areas indicated visibility improvement over the baseline through the first progress period. All but two Class I areas were below the RPGs for the first progress period based on 2005–2009 data. The five-year average deciview trend for the most recent period (2007–2011) achieved visibility improvement for all Class I areas except White Mountain, which got slightly worse by 0.2 dv. All but three sites met the 2018 RPGs based on 2007–2011 data: The data supports an inference that 2007–2011 visibility conditions at White Mountain are higher due to elevated course mass levels in 2011 compared to baseline levels. The 2007–2011 visibility conditions at Bandelier and San Pedro parks were high, apparently due to elevated organic mass levels in 2011 from impacts of fires.

Although three Class I sites were not tracking the RPGs at the time of the progress report, New Mexico expects further reduction of SO_2 and NO_2 emissions, not accounted for in the original RH SIP, principally from the implementation of BART controls. These added control measures should contribute toward Bandelier, San Pedro, and White Mountain achieving the RPGs for 2018. Further progress will also occur through recently adopted or proposed regulatory programs. The EPA notes that visibility conditions at these sites in some years can be impacted more significantly by natural sources of wind-blown dust and/or fires than other years and considers this relevant when evaluating progress toward the natural visibility goals.

The EPA proposes to conclude that New Mexico has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(F). The EPA views the requirement of this section as a qualitative assessment that should evaluate emissions and visibility trends, including expected emissions reductions from measures that have not yet become effective. New Mexico referenced the improving visibility trends with appropriately supported data with a focus on future implementation of BART controls.

G. Review of Visibility Monitoring Strategy

40 CFR 51.309(10)(i)(G) requires a review of the State's visibility monitoring strategy and any modifications to the strategy as necessary.

The monitoring strategy for regional haze in New Mexico relies upon participation in the IMPROVE [33] network, which is the primary monitoring network for regional haze nationwide. The IMPROVE network provides a long-term record for tracking visibility improvement or degradation. New Mexico currently relies on data collected through the IMPROVE network to satisfy the regional haze monitoring requirement as specified in the Regional Haze Rule.

In its progress report SIP, New Mexico summarizes the existing IMPROVE monitoring network: Seven monitoring sites in New Mexico and one in Texas (utilized for Carlsbad Caverns National Park). New Mexico stated that IMPROVE monitoring data served as the baseline for the regional haze program and that future regional haze monitoring strategy must be based on, or directly comparable to the current IMPROVE network. New Mexico concluded that the existing network is adequate and modifications to the visibility monitoring strategy are not necessary at this time.

The EPA proposes to conclude that New Mexico has adequately addressed the sufficiency of its monitoring strategy as required by the provisions under 40 CFR 51.309(d)(10)(i)(G). New Mexico reaffirmed its continued reliance upon the IMPROVE monitoring network. New Mexico also explained the importance of the IMPROVE monitoring network for tracking visibility trends at its Class I areas and identified no expected changes in this network.

H. Determination of Adequacy

Under 40 CFR 51.309(d)(10)(ii), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing RH SIP and to take one of four possible actions based on information in the progress report. 40 CFR 51.309(d)(10)(ii) requires states to take one of the following actions:

(1) Submit a negative declaration to the EPA that no further substantive revision to the State's existing RH SIP is needed.

(2) If the State determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from sources in another state(s) which participated in a regional planning process, the State must provide notification to the EPA and to the other state(s) which participated in the regional planning process with the states. The State must also collaborate with the other state(s) through the regional planning process for developing additional strategies to address the plan's deficiencies.

(3) Where the State determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from sources in another country, the State shall provide notification, along with available information, to the Administrator.

(4) If the State determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from sources within the State, then the State shall revise its implementation plan to address the plan's deficiencies within one year.

The State of New Mexico has provided the information required under 40 CFR 51.309(d)(10)(i) in the five-year progress report. Based upon this information, New Mexico states in its progress report SIP that it believes that the current Section 309 and 309(g) RH SIPs are adequate to meet the State's 2018 RPGs and require no further revision at this time. Thus, the EPA has received a negative declaration from New Mexico.

V. The EPA's Proposed Action

The EPA is proposing to approve New Mexico's regional haze five-year progress report SIP revision (submitted on March 11, 2014) as meeting the applicable regional haze requirements set forth in 40 CFR 51.309(d)(10). The EPA is proposing to approve New Mexico's determination that the current RH SIP is adequate to meet the State's 2018 RPGs.

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

[33] Data from IMPROVE show that visibility impairment caused by air pollution occurs virtually all the time at most national parks and wilderness areas. The average visual range in many Class I areas (*i.e.,* national parks and memorial parks, wilderness areas, and international parks meeting certain size criteria) in the western United States is 100–150 kilometers, or about one-half to two-thirds of the visual range that would exist without anthropogenic air pollution. In most of the eastern Class I areas of the United States, the average visual range is less than 30 kilometers, or about one-fifth of the visual range that would exist under estimated natural conditions. 64 FR 35715 (July 1, 1999).

• Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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 proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action does have tribal implications in non-reservation areas of Indian country within the state. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The EPA is coordinating with tribes regarding this matter.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Best Available Retrofit Technology, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Regional haze, Sulfur dioxide, Visibility, Volatile organic compounds.

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

Dated: October 23, 2015.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2015–28007 Filed 11–2–15; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 4

[GN Docket No. 15–206; FCC 15–119]

Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Federal Communications Commission (Commission) proposes to require submarine cable licensees, as a condition of their license, to report on outages involving either lost connectivity or degradation of 50 percent or more of a submarine cable's capacity for periods of at least 30 minutes, regardless of whether the cable's traffic is re-routed. The Commission seeks comment on whether this reporting system is necessary, whether the proposed reporting triggers are appropriate, and whether the reporting system proposed is the most efficient means to accomplish the Commission's goals of gaining visibility into the operational status of submarine cables. The document also seeks comment on ways in which the Commission can act to improve the submarine cable deployment process either on its own accord or by coordinating with other stakeholders.

DATES: Submit comments on or before December 3, 2015 and reply comments by December 18, 2015.

ADDRESSES: You may submit comments, identified by docket number GN 15–206, by any of the following methods:

• Federal Communications Commission's Web site: *http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.

• Mail: U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• 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.

Parties wishing to file materials with a claim of confidentiality should follow the procedures set forth in section 0.459 of the Commission's rules. Confidential submissions may not be filed via ECFS but rather should be filed with the Secretary's Office following the procedures set forth in 47 CFR 0.459. Redacted versions of confidential submissions may be filed via ECFS. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael D. Saperstein, Jr., Attorney Advisor, Public Safety and Homeland Security Bureau, (202) 418–7008 or *michael.saperstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* (*NPRM*) in GN Docket No. 15–206, released on September 18, 2015. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554, or online at *https://www.fcc.gov/document/improving-outage-reporting-submarine-cables.*

Synopsis of *Notice of Proposed Rulemaking*

I. Introduction

Submarine (or ''undersea'') cables provide the primary means of connectivity—voice, data and Internet—between the mainland United States and consumers in Alaska, Hawaii, Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, as well as connectivity between the United States and the rest of the world. Given the role of submarine cables to the nation's economic and national security, there is value to ensuring that infrastructure is reliable, resilient and diverse. Today, however, the ad hoc approach to outage reporting for undersea cables has resulted in a gap in the sufficiency of the information that the Commission staff receives from service providers. To effectuate our statutory obligations of promoting the

public interest and our nation's economic and national security, we need the ability to (1) be advised of undersea cable outages when they occur; (2) receive the information necessary to understand the nature of the damage and potential impacts on critical U.S. economic sectors, national security, and other vital interests; and (3) enhance coordination and help facilitate restoration of service in outage events.

In this *Notice of Proposed Rulemaking* ''*NPRM*''), we propose to require submarine cable licensees to report outages involving either lost connectivity or degradation of 50 percent or more of an undersea cable's capacity for periods of at least 30 minutes, regardless of whether the cable's traffic is re-routed. We also propose to amend the submarine cable landing license rules to require compliance with the outage reporting requirements.

II. Discussion

In this *NPRM* we propose rules to improve the Commission's present lack of visibility on undersea cable operational status by requiring undersea cable licensees to provide outage information to the Commission through a reliable part 4 template in accordance with logical standards and triggers. We also propose to revise part 1 of the rules governing submarine cable licenses to ensure compliance with the outage reporting requirements. We seek comment on all aspects of this proposal, including the definitions, degradation thresholds, and reporting structure for these requirements.

A. Extending Mandatory Outage Reporting to Submarine Cables

Undersea Cable Information System (UCIS). In 2008, in cooperation with other Federal agencies, and in support of Federal national security and emergency preparedness communications programs, the Commission began UCIS as a voluntary outage reporting system. Licensees that elect to use UCIS are asked to provide four categories of information for each submarine cable with a cable landing in the United States: (1) A terrestrial route map; (2) a location spreadsheet; (3) a general description of restoration plans in the event of an incident; and (4) system restoration messages. The Commission's experience with the ad hoc nature of this reporting approach highlights two significant concerns: (1) The Commission only receives information on about one-fourth of the cables; and (2) the information submitted is neither uniform, complete, nor consistent with respect to reporting triggers, form, or substance. We seek comment on licensees' evaluation of their participation in the UCIS program. To what extent and under what circumstances do submarine cable licensees make use of this tool? How many outages, planned or unplanned, does a licensee experience per year? Are there discernable patterns to submarine cable outages?

Based on our experience, we believe that the Commission needs access to more timely and consistent reporting and information to assess the operational status of submarine cables, including any outages and the associated restoration status of these cables. We seek comment on whether the approach we propose in this item achieves our policy goals, and whether there are other approaches that may also achieve our policy goals. Is there a manner in which the Commission could maintain the UCIS model, either in format or in substance, and ensure it receives the necessary data on submarine cable operational status? What changes would need to be made to the current system?

B. Proposed Submarine Cable Reporting System

In light of the foregoing, we propose to replace UCIS in its entirety by extending modified outage reporting requirements in part 4 of our rules to submarine cable licensees.

1. Covered Providers

Pursuant to the Cable Landing License Act and Executive Order 10530, the Commission has promulgated cable landing licensing rules that require a person or entity to obtain a cable landing license to connect: (1) The contiguous United States with any foreign country; (2) Alaska, Hawaii, or United States territories or possessions with a foreign country, the contiguous United States, or with each other; and (3) points within the contiguous United States, Alaska, Hawaii, or a territory or possession in which the cable is laid within international waters (*e.g.,* Washington State to Alaska). The following entities are required to be licensees on a cable landing license: (1) Any entity that owns or controls a cable landing station in the United States; and (2) all other entities owning or controlling a five percent or greater interest in the cable system and using the U.S. points of the cable system. We note that although an entity with less than 5 percent ownership in a submarine cable is not required to be a licensee under the current rules, it may be a licensee, particularly on cables licensed prior to the rule change in 2002.

In order to ensure resiliency of these critically important undersea cables, regardless of whether they are used for domestic or international voice and data traffic, we propose to require that all submarine cable licensees will be subject to Part 4's reporting requirements as further described in this *Notice.* Specifically, we propose to amend section 1.767 to make outage reporting a condition of each cable landing license. We seek comment on this proposal. Are there any categories of licensees that should be exempted from mandatory outage reporting? If so, why? Are there any entities subject to the Commission's jurisdiction (*e.g.,* international communications service providers) that are not licensees that should be covered by these rules? How would applying these rules to such providers affect our legal analysis of our authority?

Many submarine cables are jointly owned and operated by multiple licensees in a consortium. We seek comment on the assumption that, should an outage occur, it will generally cause a disruption for all licensees of that submarine cable. Based on that premise, and in an effort to minimize the burden both on licensees and the Commission, we propose that where there are multiple licensees of the same cable, only one licensee per cable will be required to file an outage report. In particular, we propose an approach whereby all licensees sharing a submarine cable would acknowledge and provide consent for a designated licensee to file on behalf of the cable should an outage occur. We seek comment on this approach.

We observe that using a single licensee to coordinate filing is consistent with our treatment of submarine cables in other contexts. We seek comment on whether requiring only one licensee to file outage data on cables with multiple licensees would be efficacious. Does such an approach present a risk that the Commission will receive insufficient or otherwise incomplete information? Will the ''Responsible Licensee'' always have sufficient information to timely file and provide a full and accurate report? Should we require licensees to formally designate with the Commission one ''Responsible Licensee'' per submarine cable to bear the reporting obligation where there are multiple licensees? Does designating a ''Responsible Licensee'' place that licensee in the position of having to get information from a different licensee who caused or experienced the outage in order to

comply with full and accurate reporting requirements?

If we adopt a ''Responsible Licensee'' reporting paradigm to enhance administrative efficiency and convenience, we believe that every submarine cable licensee has a duty to ensure that outages are properly and adequately reported. We seek comment on this approach. Is such an approach equitable and capable of efficient implementation? Would such an approach create the right incentives for co-licensees to work together to quickly and accurate identify and report on outages? If reports are not timely-filed or accurate due to inability of the ''Responsible Licensee'' to obtain necessary information from the licensee who caused the outage, would enforcement action be appropriate against the ''Responsible Licensee'' only, or against co-licensees? Should each licensee be jointly and severally liable for any forfeiture? Are the administrative efficiencies of the Responsible Licensee system beneficial to reporting entities? Would the Responsible Licensee system complicate the Commission's ability to ensure proper reporting?

2. Defining a Reportable Outage or Disruption

We propose that an outage sufficient to trigger Part 4 reporting exists for submarine cables if there is a failure or significant degradation in the performance of a submarine cable, regardless of whether traffic traversing that cable can be re-routed to an alternate cable. This proposal, analogous to part 4 reporting for simplex outages, seems appropriate given the possibility of damage to multiple cables due to one or multiple related or unrelated events and the relatively small number of undersea cables available for re-routing generally. We seek comment on this proposal. How do licensees generally provide redundancy, and what are the notable effects on other services, if any?

Further, we propose reporting of a submarine cable disruption when either: (i) an event occurs in which connectivity in either the transmit mode or the receive mode is lost for at least 30 minutes; or (ii) an event occurs in which 50 percent or more of a cable's capacity in either the transmit mode or the receive mode is lost for at least 30 minutes, regardless of whether the traffic is re-routed. In this proposal we distinguish connectivity, which is the fundamental ability to transmit a signal, from capacity, which speaks to the cable's bandwidth or throughput that it is capable of transmitting at any one time. We seek comment on all aspects of this proposal.

We seek comment on whether there are more specific technical aspects of submarine cable performance or operation that, if reported, would enable the Commission to perform more sophisticated and useful outage reporting analysis. Are there any elements of the UCIS reporting structure that should remain if we adopt our proposal to require submarine cable outages under Part 4 of our rules? If we were to retain UCIS, are these reporting elements still applicable? Are there other technical specifications or aspects of submarine cable performance that should trigger a reporting requirement?

3. Report Information, Format and Timing

We propose to integrate submarine cable outage reporting into the existing NORS platform because it has proven to be an efficient mechanism for both reporting entities and Commission analysis. Our proposed system is similar, but not identical, to other part 4 outage reporting requirements. Here, we propose a three-report system that requires a Notification, an Interim Report to inform the Commission when repairs have been scheduled, and a Final Report for each outage event. We propose that in the event of a planned outage, licensees would not be required to file an Interim Report if the planned nature of the event was appropriately signaled in the Notification.

Under our proposal, a licensee would be required to file a Notification in NORS within 120 minutes from the time that the licensee has determined that an event is reportable. We propose that the Notification would include:

- The name of the reporting entity;
- The name of the cable and a list of all licensees for that cable;
- A brief description of the event, including root cause;
- Whether the event is planned or unplanned;
- The date and time of onset of the outage (for planned events, this is the estimated start time/date of the repair);
- Nearest cable landing station;
- Approximate location of the event (either in nautical miles from the nearest cable landing station or in latitude and longitude);
- Best estimate of the duration of the event (total amount of time connectivity will be lost or 50 percent or more of the capacity will be lost);
- A contact name, contact email address, and contact telephone number by which the Commission's technical staff may contact the reporting entity.

We seek comment on all aspects of our proposed Notification. Should we require reporting of additional technical elements of submarine cable performance that would enable the Commission to perform more thorough and systematic outage reporting analysis? What technical elements would be appropriate to include in the Notification and do they differ from those that should be included in the Interim Report and Final Report? Are all of the reporting elements proposed generally known, or knowable with due diligence, to the licensees at the time the Notification would be due? If not, what elements are generally unknown at this stage and when do licensees receive such information? If the outage is a planned outage, should we require advance notification of the planned outage?

Following the Notification, we propose to require licensees to file an Interim Report, if applicable (*i.e.,* for an unplanned outage), when the repair has been scheduled. We believe that a licensee will have significantly more information about expected repair times after it has scheduled its undersea repair. Accordingly, we propose to require an Interim Report within 120 minutes of scheduling the repair. We propose that the Interim Report would include:

- The name of the reporting entity;
- The name of the cable;
- A brief description of the event, including root cause;
- The date and time of onset of the outage;
- Nearest cable landing station;
- Approximate location of the event (either in nautical miles from the nearest cable landing station or in latitude and longitude);
- Best estimate of when the cable is scheduled to be repaired, including approximate arrival time and date of the repair ship, if applicable;
- A contact name, contact email address, and contact telephone number by which the Commission's technical staff may contact the reporting entity.

We seek comment on all aspects of our proposed Interim Report. We note that the NORS interface automatically populates the fields where information required duplicates that of the Notification, so the reporting licensee will not have to reenter data unless it is to amend or edit a previously-supplied response. Should we require reporting of additional technical elements of submarine cable performance that would enable the Commission to perform more thorough and systematic outage reporting analysis? What technical elements would be appropriate to include in the Interim

Report and do they differ from those that should be included in the Notification and Final Report? Are all of the reporting elements proposed generally known, or knowable with due diligence, to the licensees at the time the Interim Report would be due? If not, what elements are generally unknown at this stage and when do licensees receive such information?

After the Interim Report (if applicable), we propose to require licensees to file a Final Report seven days after the repair is completed. We propose that the Final Report would include:

- The name of the reporting entity;
- The name of the cable;
- Whether the outage was planned or unplanned;
- The date and time of onset of the outage (for planned events, this is the start date and time of the repair);
- A brief description of the event;
- Nearest cable landing station;
- Approximate location of the event (either in nautical miles from the nearest cable landing station or in latitude and longitude);
- Duration of the event (total amount of time connectivity was lost or 50 percent or more of the capacity is lost);
- The restoration method;
- A contact name, contact email address, and contact telephone number by which the Commission's technical staff may contact the reporting entity.

We seek comment on all aspects of our proposed Final Report. We note that the NORS interface automatically populates the fields where information required duplicates that of the Notification and Interim Report, so the reporting licensee will not have to reenter data unless it is to amend or edit a previously-supplied response. Should we require reporting of additional technical elements of submarine cable performance that would enable the Commission to perform more thorough and systematic outage reporting analysis? What technical elements would be appropriate to include in the Final Report and do they differ from those that should be included in the Notification and Interim Report? Are all of the reporting elements proposed generally known, or knowable with due diligence, to the licensees at the time the Final Report would be due? If not, what elements are generally unknown at this stage and when do licensees receive such information?

We propose to adopt substantially the same wording codified in section 4.11 of our rules for the submarine cable outage reporting system to the extent that it addresses authorized personnel, the requirement of good faith, the method of attestation that the information supplied is complete and accurate, and the manner of filing. We seek comment on applying the concepts of this rule to submarine cable reporting.

4. Confidentiality

Section 4.2 of the Commission's rules governing outage reporting states that ''[r]eports filed under this part will be presumed to be confidential.'' We propose to continue treating this information as presumptively confidential. We seek comment on this proposal. We observe that NORS data is routinely shared with the U.S. Department of Homeland Security (DHS). The Commission is currently seeking comment on whether to share its Part 4 NORS outage reporting data with other federal agencies and/or state governments. We seek comment on whether the decision the Commission adopts regarding sharing outage reporting in the current NORS context should be applicable to information the Commission would receive if it were to extend the outage reporting requirements to submarine cables. What types of federal agencies and/or state and territorial governments would need to access information on submarine cable outage reports? Should such sharing be limited to cases where there is a direct effect on the government entity?

C. Costs and Benefits of Outage Reporting Requirements

We tentatively conclude that the benefits to be gained from this new reporting regime will substantially outweigh any costs to providers. The benefit of the Commission's situational awareness and ability to facilitate communications alternatives, which would come as a result of promulgating these rules, is particularly amplified with submarine cables due to the relatively small number of submarine cable serving as conduits for traffic to and from the United States.

We are proposing a narrowly-tailored submarine cable outage reporting regime that we believe will have minimal cost to the entities reporting those outages. We seek comment on the tentative conclusion that our proposal's expected benefits will far exceed the minimal costs imposed on reporting entities. In our UCIS OMB Supporting Statement we estimated that the reporting required would cost $265,000 for 5,300 total hours spent on annual reporting (*i.e.,* developing the initial reporting on terrestrial route maps, undersea cable location spreadsheet and restoration capabilities, updating the initial reports as necessary and reporting outages as they occur); we believe that the reporting system we propose in this NPRM would have substantially lower costs of compliance because we have eliminated many of the elements requested in UCIS. We estimated that there would be 40 annual restoration or trouble reports. Is this figure still accurate? There are roughly 100–200 incidents requiring repair each year globally, and the majority of these incidents appear to have occurred on cables not directly connected to the United States. In light of the relatively small number of submarine cable incidents that appear to have affected FCC-licensed cables directly, and depending on how we define a reportable incident, we seek input on the burden of such reporting on filing parties. Do licensees already collect the information we are seeking? If so, how much extra effort would be required to input that information into the proposed database?

We conservatively estimate that the total annual burden will be $8,000 for the entire industry once the licensees have set up adequate reporting processes. For the annual burden, we conservatively estimate that there will be 50 reportable events. We conservatively estimate based on our experience with NORS reporting that the Notification will require 15 minutes to complete, the Interim Report will require 45 minutes to complete, and the final report will require one hour to complete, for a total of two hours per reportable event. At an assumed labor cost of $80/hour, and two hours for each of the 50 reporting cycles, the total cost of compliance would be $8,000. We seek comment on this analysis. We recognize that there are costs associated with implementing any new reporting system. What are the incremental costs of implementing the proposed NORS reporting system, recognizing a reporting system may already be in place for filing UCIS reports? To what extent are we proposing to require information that is not readily available as part of the normal course of business in the event of an outage? Are there costs associated with initiating the Responsible Licensee system, such as inter-licensee negotiations, that would add to the burdens associated with our proposal? Does the Responsible Licensee system alleviate the need for many licensees to establish an internal reporting system if they previously lacked one? We seek comment on all aspects of our analysis.

D. Improving Submarine Cable Deployment Processes and Interagency Coordination

The installation of submarine cable systems involves authorizations or permits from a number of federal and state agencies. We seek comment on the submarine cable deployment processes generally, and request any information concerning, for example, burdensome regulations or other issues that may impede rapid deployment and maintenance of undersea cables. We also seek comment on whether there are any actions we can take or steps we can encourage other agencies to take.

With respect to interagency coordination, the International Bureau, which is responsible for administering submarine cable licenses, in coordination with the Public Safety and Homeland Security Bureau, will reach out to relevant government agencies, under its existing delegated authority, to develop and improve interagency coordination processes and best practices vis-à-vis submarine cable deployment activities and related permits and authorizations to increase transparency and information sharing among the government agencies, cable licensees, and other stakeholders. The Bureaus will report their progress to the Commissioners. Are there additional means in which we may take actions to facilitate investments in and the rapid construction of reliable submarine cable network infrastructure?

E. Legal Authority

The Cable Landing License Act and Executive Order 10530 provide the Commission with authority to grant, withhold, condition and revoke submarine cable landing licenses. We tentatively conclude that that the Cable Landing License Act and Executive Order 10530 provide the Commission authority to adopt the outage reporting rules proposed in this NPRM and to impose compliance obligations with the proposed outage reporting requirements. We seek comment on the Commission's authority under the Cable Landing License Act and Executive Order 10530 to adopt the Part 1 and Part 4 rules on outage reporting obligations proposed in the NPRM.

IV. Procedural Matters

A. Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the proposals addressed in the NPRM. The IRFA is set forth in Section VII of this *NPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed on or before the dates indicated on the first page of this NPRM. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

B. Paperwork Reduction Act of 1995

The NPRM 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 to comment on the information collection requirements contained in the NPRM, 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, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Ex Parte Rules

The proceeding is 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.

D. Comment Filing Procedures

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 the NPRM. Comments should be filed in GN Docket No. 15–206. 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://fjallfoss.fcc.gov/ecfs2/.*
- 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 St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be 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).

Confidential Materials: Parties wishing to file materials with a claim of confidentiality should follow the procedures set forth in section 0.459 of the Commission's rules. Confidential submissions may not be filed via ECFS but rather should be filed with the Secretary's Office following the procedures set forth in 47 CFR 0.459. Redacted versions of confidential submissions may be filed via ECFS.

V. Ordering Clauses

Accordingly, *it is ordered* pursuant to sections 1, 4(i), 4(j), 4(o), of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j) & (o), and pursuant to the Cable Landing License Act of 1921, 47 U.S.C. 34–39 and 3 U.S.C. 301 that this *Notice of Proposed Rulemaking* in GN Docket No. 15–206 *is adopted.*

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 Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

VII. Initial Regulatory Flexibility Analysis

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 recommendations 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 in ''Comment Period and Procedures'' of this *NPRM.* The Commission will send a copy of this *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

We propose measures to improve the utility and effectiveness of the current scheme for receiving information on submarine cable outages, with the ultimate goal of enhancing both our overall understanding of submarine cable system status and our knowledge regarding specific outages disruptions and restoration efforts.

B. Legal Basis

The *NPRM* is adopted pursuant to sections 1, 4(i), 4(j), and 4(o) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j) & (o) and pursuant to the Cable Landing License Act of 1921, 47 U.S.C. 34–39 and 3 U.S.C. 301.

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

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 proposals, 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 that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

The proposals in the *NPRM* apply only to entities licensed to construct and operate submarine cables under the Cable Landing License Act. The *NPRM* proposes to have submarine cable licensees affected by a service outage file outage reports with the Commission describing the outage and restoration.

The entities that the *NPRM* proposes to require to file reports are a mixture of both large and small entities. The Commission has not developed a small business size standard directed specifically toward these entities. However, as described below, these entities fit into larger categories for which the SBA has developed size standards that provide these facilities or services.

Facilities-based Carriers. Facilities-based providers of international telecommunications services would fall into the larger category of interexchange carriers. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Interexchange carriers can be considered small entities. According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the NPRM.

In the 2009 annual traffic and revenue report, 38 facilities-based and facilities-resale carriers reported approximately $5.8 billion in revenues from international message telephone service (IMTS). Of these, three reported IMTS revenues of more than $1 billion, eight reported IMTS revenues of more than $100 million, 10 reported IMTS revenues of more than $50 million, 20 reported IMTS revenues of more than $10 million, 25 reported IMTS revenues of more than $5 million, and 30 reported IMTS revenues of more than $1 million. Based solely on their IMTS revenues the majority of these carriers would be considered non-small entities under the SBA definition.

The 2009 traffic and revenue report also shows that 45 facilities-based and facilities-resale carriers (including 14 who also reported IMTS revenues) reported $683 million for international private line services; of which four reported private line revenues of more than $50 million, 12 reported private line revenues of more than $10 million, 30 reported revenues of more than $1 million, 34 reported private line revenues of more than $500,000; 41 reported revenues of more than $100,000, while 2 reported revenues of less than $10,000.

The 2009 traffic and revenue report also shows that seven carriers (including one that reported both IMTS and private line revenues, one that reported IMTS revenues and three that reported private line revenues) reported $50 million for international miscellaneous services, of which two reported miscellaneous services revenues of more than $1 million, one reported revenues of more than $500,000, two reported revenues of

more than $200,000, one reported revenues of more than $50,000, while one reported revenues of less than $20,000. Based on its miscellaneous services revenue, this one carrier with revenues of less than $20,000 would be considered a small business under the SBA definition. Based on their private line revenues, most of these entities would be considered non-small entities under the SBA definition.

Providers of International Telecommunications Transmission Facilities. According to the 2012 Circuit-Status Report, 61 U.S. international facility-based carriers filed information pursuant to section 43.82. Some of these providers would fall within the category of Inter-exchange Carriers, some would fall within the category of Wired Telecommunications Carriers, while others may not. The Commission has not developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Interexchange carriers can be considered small entities. According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. The circuit-status report does not include employee or revenue statistics, so we are unable to determine how many carriers could be considered small entities under the SBA standard. Although it is quite possible that a carrier could report a small amount of capacity and have significant revenues, we will consider those 61 carriers to be small entities at this time. In addition, of the 79 carriers that filed an annual circuit-status report for 2009, there were at least four carriers that reported no circuits owned or in use at the end of 2009.

Operators of Undersea Cable Systems. The NPRM seeks comment on whether submarine cable facilities should be subject to reporting requirements in the event of an outage. Neither the Commission nor the SBA has developed a size standard specifically for operators of undersea cables. Such entities would fall within the large category of Wired Telecommunications Carriers. The size standard under SBA rules for that category is that such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these carriers can be considered small entities. We do not have data on the number of employees or revenues of operators of undersea cables. Because we do not have information on the number of employees or their annual revenues, we shall consider all such providers to be small entities for purposes of this IRFA.

Operators of Non-Common Carrier International Transmission Facilities. At present, carriers that provide common carrier international transmission facilities over submarine cables are not required to report on outages, though the NPRM seeks comment on whether such carriers should be required to provide outage reports. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of non-common carrier terrestrial facilities. The operators of such terrestrial facilities would fall within the larger category of Wired Telecommunications Carriers. The appropriate size standard under SBA rules for the Wired Telecommunications Carriers category is that such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1000 or more.

Incumbent Local Exchange Carriers. Because some of the international terrestrial facilities that are used to provide international telecommunications services may be owned by incumbent local exchange carriers, we have included small incumbent local exchange carriers in this present RFA analysis, to the extent that such local exchange carriers may operate such international facilities. (Local exchange carriers along the U.S.-border with Mexico or Canada may have local facilities that cross the border.) Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange carriers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1000 or more. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. 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 local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope. Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the NPRM. We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analysis and determinations in other, non-RFA contexts. Thus under this category and the associated small business size standard, the majority of these incumbent local exchange service providers can be considered small providers.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The *NPRM* seeks comment on a proposal to mandate outage reporting requirements to all submarine cable licensees. An outage occurs when a licensee experiences an event in which (1) connectivity in either the transmit mode or receive mode is lost for at least 30 minutes; or (2) 50 percent or more of the capacity of the submarine cable, in either transmit or receive mode, is lost for at least 30 minutes. After a triggering event, the reporting requirement consists of three filings, the Notification,

an Interim Report for unplanned outages, and the Final Report, which provide the Commission important data to improve the Commission's situational awareness on the operational status of submarine cables. We expect the filed reports will be based on information already within the reporting entity's possession, therefore these should be considered routine reports, though we seek comment on this assumption.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

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 small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage or the rule, or any part thereof, for small entities.''

The NPRM seeks comment on its cost-benefit analysis of imposing this new reporting requirement, including information on the extent to which submarine cable licensees already possess the outage information that we propose to require. The Commission takes the position that the national security and economic benefits of providing the Commission with situational awareness of the operating status submarine cables outweighs the minimal cost of reporting proposed. We seek comment on that view. The Commission proposes these rules only after its existing ad hoc and voluntary system of reporting submarine cable outages has failed to provide the Commission with the information it requires. In addition, the Commission proposes that where there are multiple licensees of a single submarine cable that experiences an outage, the licensees of that cable can designate a Responsible Licensee to report on the outage on behalf of all affected licensees. While each licensee maintains the responsibility of ensuring that the proper reports are filed, this process can cut down on the individual reporting requirements for many licensees, possibly including small businesses. The Commission seeks comment on how it can create the most efficient and least burdensome process possible while still meeting its goals.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

List of Subjects in 47 CFR parts 1 and 4

Disruptions to Communications, Telecommunications, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1 and 4 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 155, 157, 225, 303(r), 309, 1403, 1404, 1451, and 1452.

■ 2. Section 1.767 is amended by adding paragraph (g)(15), revising paragraph (n) and adding paragraph (o) to read as follows:

§ 1.767 Cable landing licenses.

* * * * *

(g) * * *

(15) Licensees shall file submarine cable outage reports as required in part 4 of this chapter.

* * * * *

(n)(1) With the exception of submarine cable outage reports, and subject to the availability of electronic forms, all applications and notifications described in this section must be filed electronically through the International Bureau Filing System (IBFS). A list of forms that are available for electronic filing can be found on the IBFS homepage. For information on electronic filing requirements, see part 1, subpart Y, and the IBFS homepage at *http://www.fcc.gov/ibfs.* See also §§ 63.20 and 63.53 of this chapter.

(2) Submarine cable outage reports must be filed as set forth in part 4 of this chapter.

(o) *Outage Reporting* Licensees of a cable landing license granted prior to March 15, 2002 shall file submarine cable outage reports as required in part 4 of this chapter.

PART 4—DISRUPTIONS TO COMMUNICATIONS

■ 3. The authority citation for part 4 is revised to read as follows:

Authority: 47 U.S.C. 34–39, 154, 155, 157, 201, 251, 307, 316, 615a–1, 1302(a), and 1302(b); 5 U.S.C. 301, and Executive Order no. 10530.

■ 4. Section 4.1 is revised to read as follows:

§ 4.1 Scope, basis, and purpose.

(a) In this part, the Federal Communications Commission is setting forth requirements pertinent to the reporting of disruptions to communications and to the reliability and security of communications infrastructures.

(b) The definitions, criteria, and reporting requirements set forth in §§ 4.2 through 4.13 of this part are applicable to the communications providers defined in § 4.3 of this part.

(c) The definitions, criteria, and reporting requirements set forth in § 4.15 of this part are applicable to providers of submarine cable licensees who have been licensed pursuant to 47 U.S.C. 34–39.

■ 5. Add § 4.15, to read as follows:

§ 4.15 Submarine Cable Outage Reporting

(a) *Definitions*

(1) For purposes of this section, ''outage'' is defined as a failure or degradation in the performance of that communications provider's cable regardless of whether the traffic can be rerouted to an alternate cable.

(2) An ''outage'' requires reporting under this section when:

(i) An event occurs in which connectivity in either the transmit mode or the receive mode is lost for at least 30 minutes; or

(ii) Fifty percent or more of the capacity of the submarine cable, in either the transmit mode or the receive mode, is lost for at least 30 minutes.

(b) *Outage Reporting*

(1) For each outage that requires reporting under this section, the licensee (or Responsible Licensee as noted herein) shall provide the Commission with a Notification, and Interim Report (subject to the limitations on planned outages in paragraph (b)(2)(iii) of this section), and a Final Outage Report.

(i) For a submarine cable that is jointly owned and operated by multiple licensees, the licensees of that cable may designate a Responsible Licensee that files outage reports under this rule on behalf of all licensees on the affected cable.

(ii) Licensees opting to designate a Responsible Licensee must jointly notify the Chief of the Public Safety and Homeland Security Bureau's Cybersecurity and Communications Reliability Division of this decision in writing. Such notification shall include the name of the submarine cable at

issue; contact information for all licensees on the submarine cable at issue, including the Responsible Licensee;

(2) Notification, Interim, and Final Outage Reports shall be submitted by a person authorized by the licensee to submit such reports to the Commission.

(i) The person submitting the Final Outage Report to the Commission shall also be authorized by the licensee to legally bind the provider to the truth, completeness, and accuracy of the information contained in the report. Each Final report shall be attested by the person submitting the report that he/she has read the report prior to submitting it and on oath deposes and states that the information contained therein is true, correct, and accurate to the best of his/her knowledge and belief and that the licensee on oath deposes and states that this information is true, complete, and accurate.

(ii) The Notification is due within 120 minutes of the time of determining that an event is reportable. The Notification shall be submitted in good faith. Licensees shall provide: The name of the reporting licensee; the name of the cable and a list of all licensees for that cable; the date and time of onset of the outage (for planned events, this is the estimated start time/date of the repair); a brief description of the event, including root cause; nearest cable landing station; approximate location of the event (either in nautical miles from the nearest cable landing station or in latitude and longitude); best estimate of the duration of the event (total amount of time connectivity is lost or 50 percent or more of the capacity is lost); whether the event is planned or unplanned; and a contact name, contact email address, and contact telephone number by which the Commission's technical staff may contact the reporting entity.

(iii) The Interim Report is due within 120 minutes of scheduling a repair to a submarine cable. The Interim Report shall be submitted in good faith. Licensees shall provide: The name of the reporting licensee; the name of the cable; a brief description of the event, including root cause; the date and time of onset of the outage; nearest cable landing station; approximate location of the event (either in nautical miles from the nearest cable landing station or in latitude and longitude); best estimate of when the cable is scheduled to be repaired, including approximate arrival time and date of the repair ship, if applicable; a contact name, contact email address, and contact telephone number by which the Commission's technical staff may contact the reporting entity. The Interim report is not required where the licensee has reported in the Notification that the outage at issue is a planned outage.

(iv) The Final Outage Report is due seven days after the repair is completed. The Final Outage Report shall contain: The name of the reporting licensee; the name of the cable, the date and time of onset of the outage (for planned events, this is the start date and time of the repair); a brief description of the event; nearest cable landing station; approximate location of the event (either in nautical miles from the nearest cable landing station or in latitude and longitude); duration of the event (total amount of time connectivity is lost or 50 percent or more of the capacity is lost); whether the event was planned or unplanned; the restoration method; and a contact name, contact email address, and contact telephone number by which the Commission's technical staff may contact the reporting entity. The Final Report must also contain an attestation as described in paragraph (b)(2)(i) of this section.

(v) The Notification, Interim Report, and Final Outage Reports are to be submitted electronically to the Commission. ''Submitted electronically'' refers to submission of the information using Commission-approved Web-based outage report templates. If there are technical impediments to using the Web-based system during the Notification stage, then a written Notification to the Commission by email to the Chief, Public Safety and Homeland Security Bureau is permitted; such Notification shall contain the information required. Electronic filing shall be effectuated in accordance with procedures that are specified by the Commission by public notice.

(c) *Confidentiality* reports filed under this part will be presumed to be confidential. Public access to reports filed under this part may be sought only pursuant to the procedures set forth in 47 CFR 0.461. Notice of any requests for inspection of outage reports will be provided pursuant to 47 CFR 0.461(d)(3).

[FR Doc. 2015–27926 Filed 11–2–15; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 80, No. 212
Tuesday, November 3, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Advisory Committee on Voluntary Foreign Aid Meeting

AGENCY: United States Agency for International Development.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: Tuesday, November 10, 2015.
Time: 2:00–4:00 p.m.
Location: Pavilion Room, The Ronald Reagan Building, 1300 Pennsylvania Ave. NW., Washington, DC 20004.

Purpose

The Advisory Committee on Voluntary Foreign Aid (ACVFA) brings together USAID and private voluntary organization officials, representatives from universities, international nongovernment organizations, U.S. businesses, and government, multilateral, and private organizations to foster understanding, communication, and cooperation in the area of foreign aid.

Agenda

USAID Acting Administrator Ambassador Alfonso E. Lenhardt will make opening remarks, followed by panel discussions among ACVFA members and USAID leadership on the U.S. Global Development Lab. The full meeting agenda will be forthcoming on the ACVFA Web site at *http://www.usaid.gov/who-we-are/organization/advisory-committee.*

Stakeholders

The meeting is free and open to the public. Registration information will be forthcoming on the ACVFA Web site at *http://www.usaid.gov/who-we-are/organization/advisory-committee.*

FOR FURTHER INFORMATION CONTACT: Jayne Thomisee, *acvfa@usaid.gov*

Dated: October 22, 2015.

Jayne Thomisee,

Executive Director & Policy Advisor, U.S. Agency for International Development.

[FR Doc. 2015–27932 Filed 11–2–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0064]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Phytosanitary Export Certification

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 issuance of phytosanitary certificates for plants or plant products being exported to foreign countries.

DATES: We will consider all comments that we receive on or before January 4, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0064.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0064, 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-2015-0064* 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 phytosanitary export certification for plants and plant products being exported to foreign countries, contact Mr. Terrance Wells, Export Specialist North America and U.S. Territories, PHP, PPQ, APHIS, 4700 River Road Unit 131, Riverdale, MD 20737; (301) 851–2315. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

SUPPLEMENTARY INFORMATION:

Title: Phytosanitary Export Certification.

OMB Control Number: 0579–0052.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to certify as to the freedom of plants, plant products, or biological control organisms from plant pests or noxious weeds, or the exposure of plants, plant products, or biological control organisms to plant pests or noxious weeds, according to the phytosanitary or other requirements of the countries to which the plants, plant products, or biological control organisms may be exported.

The Animal and Plant Health Inspection Service (APHIS), among other things, provides export certification services to assure other countries that the plants and plant products they are receiving from the United States are free of plant pests specified by the receiving country. Our regulations do not require that we engage in export certification activities. However, we perform this work as a service to exporters who are shipping plants or plant products to countries that require phytosanitary certification as a condition of entry.

The export certification regulations in 7 CFR part 353 describe the procedures for obtaining certification for plants and plant products offered for export or re-export. To request that we perform a phytosanitary inspection, an exporter must complete and submit an Application for Inspection and Certification of Plants and Plant Products for Export (PPQ Form 572).

After assessing the condition of the plants or plant products intended for export (*i.e.,* after conducting a phytosanitary inspection), an inspector (who may be an APHIS employee or a State or county plant regulatory official) will issue an internationally recognized phytosanitary certificate (PPQ Form 577), a phytosanitary certificate for re-export (PPQ Form 579), or an export certificate for processed plant products (PPQ Form 578). These forms are critical to our ability to certify plants and plant products for export. Without them, we would be unable to conduct an export certification program.

Since the Office of Management and Budget's (OMB's) last approval of this collection, we have revised the estimates of burden associated with this information collection. We have added activities that were previously not accounted for, such as the recordkeeping burden for PPQ Form 572 or its equivalent, a memorandum of understanding for State inspectors, request for APHIS to negotiate with national plant protection organizations for industry-issued certificates or documentation, memorandum of understanding with industry for inspection and use of International Standards for Phytosanitary Measures Guidelines for Regulating Wood Packaging Material in International Trade (ISPM 15), and the application of an ISPM 15 mark. In addition, we have removed burden that reflected activities that were conducted by APHIS personnel.

We are asking 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 reporting burden for this collection of information is estimated to average 0.0066 hours per response.

Respondents: State, local, and county plant regulatory officials, U.S. growers, shippers, and exporters.

Estimated annual number of respondents: 9,101.

Estimated annual number of responses per respondent: 6,155.

Estimated annual number of responses: 56,015,610.

Estimated total annual burden on respondents: 369,977 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 28th day of October 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–27960 Filed 11–2–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0100]

Notice of Determination; Changes to the National Poultry Improvement Plan Program Standards

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are updating the National Poultry Improvement Plan (NPIP) Program Standards document. In a previous notice, we made available to the public for review and comment revisions to the NPIP Program Standards document describing changes to blood testing procedures for mycoplasma, bacteriological examination procedure changes for *Salmonella,* and the addition of new approved diagnostic test kits.

DATES: Effective January 4, 2016.

FOR FURTHER INFORMATION CONTACT: Dr. Denise Brinson, DVM, Director, National Poultry Improvement Plan, VS, APHIS, USDA, 1506 Klondike Road, Suite 101, Conyers, GA 30094–5104; (770) 922–3496.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR parts 145, 146, and 147 (referred to below as the regulations) contain the provisions of the National Poultry Improvement Plan (NPIP, also referred to below as ''the Plan''), a cooperative Federal-State-Industry mechanism for controlling certain poultry diseases. The Animal and Plant Health Inspection Service (APHIS, also referred to as ''the Service'') of the U.S. Department of Agriculture (USDA, also referred to as ''the Department'') amends these provisions from time to time to incorporate new scientific information and technologies within the Plan.

In § 147.53, paragraph (b) states that approved tests and sanitation procedures used to qualify flocks for NPIP classifications are set out in the NPIP Program Standards.[1] In that section, paragraphs (d) and (e) set out the process for adding or revising tests or sanitation procedures. Paragraph (e)(1) states that APHIS will publish a notice in the **Federal Register** making the test or sanitation procedure available for public comment. Paragraph (e)(2)(i) states that, at the end of the comment period, the test or sanitation procedure will be added to the NPIP Program Standards, or the NPIP Program Standards will be updated to reflect changes to an existing test or sanitation procedure, if:

(a) No comments were received on the notice;

(b) The comments on the notice supported the action described in the notice; or

(c) The comments on the notice were evaluated but did not change the Administrator's determination that approval of the test or sanitation procedure is appropriate based on the standards in paragraph (a) of § 147.53.

On February 6, 2015, we published a notice [2] in the **Federal Register** (80 FR 6681, Docket No. APHIS–2014–0100) advising the public that we had prepared updates to the NPIP Program Standards document. The proposed updates included changes to blood testing procedures for mycoplasma, bacteriological examination procedure changes for *Salmonella,* and the addition of new approved diagnostic test kits.

We solicited comments on the notice for 30 days ending on March 9, 2015. We received one comment by that date, from a private citizen. However, the

[1] The Program Standards may be viewed on the NPIP Web site at *http://www.poultryimprovement.org/documents/ProgramStandardsAugust2014.pdf,* or by writing to the Service at National Poultry Improvement Plan, APHIS, USDA, 1506 Klondike Road, Suite 101, Conyers, GA 30094.

[2] To view the notice and comment we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0100.*

commenter did not address the changes mentioned in the notice.

Therefore, in accordance with our regulations in § 147.53(e)(2)(i)(C), we are revising the NPIP Program Standards as described in our previous notice.

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 28th day of October 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–27959 Filed 11–2–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0082]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Papaya From Colombia and Ecuador

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 papaya from Colombia and Ecuador into the continental United States.

DATES: We will consider all comments that we receive on or before January 4, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0082.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0082, 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-2015-0082* 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 importation of papaya from Colombia and Ecuador, contact Mr. Juan (Tony) Román, Senior Regulatory Policy Specialist, RCC, IRM, PHP, PPQ, APHIS, 4700 River Road Unit 156, 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) 851–2727.

SUPPLEMENTARY INFORMATION:

Title: Importation of Papaya From Colombia and Ecuador.

OMB Control Number: 0579–0358.

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, APHIS 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 319.56–73).

Section 319.56–25 of the regulations provides for the importation of papayas from Central America and South America into the continental United States under specified conditions intended to prevent the introduction of certain quarantine pests. Within this section, there are specific requirements for the importation of papaya from Colombia and Ecuador. Some of these requirements include the use of information collection activities, such as trapping records, grower registration, and a phytosanitary certificate issued by the national plant protection organization (NPPO) of the exporting country with an additional declaration confirming that the papaya have been grown, packed, and shipped in accordance with the regulations.

When comparing the regulations to the information collection activities that were previously approved, we found that we did not account for importers requesting phytosanitary certificates from the NPPO of the exporting country, activities associated with recordkeeping, and grower registrations and the associated reinstatements. By adding these activities to this information collection, the overall estimates of burden have increased.

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 reporting burden for this collection of information is estimated to average 0.3602 hours per response.

Respondents: Importers and growers of papaya and the NPPOs of Colombia and Ecuador.

Estimated annual number of respondents: 158.

Estimated annual number of responses per respondent: 5.88.

Estimated annual number of responses: 930.

Estimated total annual burden on respondents: 335 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 28th day of October 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–27967 Filed 11–2–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0081]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Tomatoes From Certain Central American Countries

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 tomatoes from certain Central American countries.

DATES: We will consider all comments that we receive on or before January 4, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0081*.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS–2015–0081, 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-2015-0081* 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 the importation of tomatoes from certain Central American countries, contact Mr. Juan (Tony) Román, Senior Regulatory Policy Specialist, RCC, IRM, PHP, PPQ, APHIS, 4700 River Road Unit 156, 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) 851–2727.

SUPPLEMENTARY INFORMATION:

Title: Importation of Tomatoes From Certain Central American Countries.

OMB Control Number: 0579–0286.

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. Regulations authorized by the PPA concerning the importation of fruits and vegetables into the United States from certain parts of the world are contained in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–73).

Under these regulations, pink or red tomatoes from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama are subject to certain conditions before entering the United States to prevent the introduction of plant pests into the United States. The regulations require information collection activities, including phytosanitary certificates with an additional declaration statement, production site and packinghouse inspection records, monitoring and auditing of the trapping program, trapping records, and labeling of boxes.

When comparing the regulations to the information collection activities that were previously approved, we found that we did not account for pre-harvest inspections, production site registration and recertification, and export certifications. Additionally, the number of respondents has decreased by 10, but the number of responses from each respondent has increased. By adding these activities and responses to this information collection, the overall estimates of burden have increased.

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 reporting burden for this collection of information is estimated to average 0.19 hours per response.

Respondents: Importers and growers of tomatoes and the national plant protection organizations of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

Estimated annual number of respondents: 54.

Estimated annual number of responses per respondent: 112.4.

Estimated annual number of responses: 6,072.

Estimated total annual burden on respondents: 1,160 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 28th day of October 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–27965 Filed 11–2–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of the Advisory Committee on Agriculture Statistics Meeting

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Agricultural Statistics Service (NASS) announces a meeting of the Advisory Committee on Agriculture Statistics.

FOR FURTHER INFORMATION CONTACT: Hubert Hamer, Executive Director, Advisory Committee on Agriculture Statistics, telephone: 202–720–3896, eFax: 855–593–5473, or email: *HOSDOD@nass.usda.gov.*

Correction.

In the **Federal Register** of October 14, 2015 in FR Doc. 2015–26089, on page 61791, in the address section, read as follows:

The Committee meeting will take place at the Brown Hotel, 335 West Broadway, Louisville, Kentucky, 40202. Written comments may be filed before or up to two weeks after the meeting with the contact person identified herein at: U.S. Department of Agriculture, National Agricultural Statistics Service, 1400 Independence Avenue SW., Room 5029, South Building, Washington, DC 20250–2000.

Yvette Anderson,

Federal Register Liaison Officer for ARS, ERS, and NASS.

[FR Doc. 2015–27972 Filed 11–2–15; 8:45 am]

BILLING CODE 3410–20–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the South Carolina Advisory Committee for a Meeting To Welcome New Members of the Committee and Discuss Potential Project Topics

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the South Carolina (State) Advisory Committee will hold a meeting on Tuesday, December 1, 2015, for the purpose of welcoming new members to the committee and discussing potential projects.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 1–888–510–1785, conference ID: 764821. Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. 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 invited and welcomed to make statements at the end of the conference call. In addition, members of the public may submit written comments; the comments must be received in the regional office by January 2, 2016. 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 at the South Carolina Advisory Committee link at *http://facadatabase.gov/committee/meetings.aspx?cid=273* and clicking on the ''Meeting Details'' and ''Documents'' links. 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.

DATES: The meeting will be held on Tuesday, December 1, 2015, at 12:00 p.m. EST.

ADDRESSES: The meeting will be by teleconference. Toll-free call-in number: 1–888–510–1785, conference ID: 764821.

Agenda

Welcome and Introductions of new advisory committee members

Walter Caudle, Chairman

South Carolina Advisory Committee discussion of potential project topics

Walter Caudle, Chairman

Open Comment

Advisory Committee

Public Participation

Adjournment

Dated: October 28, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–27867 Filed 11–2–15; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Kansas Advisory Committee to plan for a public hearing regarding civil rights and voting requirements in the State. The discussion will include approving an agenda of speakers, and logistical setup for the event.

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Kansas Advisory Committee (Committee) will hold a meeting on Thursday, November 19, 2015, at 12:00 p.m. CST for the purpose of discussing preparations for an upcoming hearing on voting rights in the State.

This meeting is available to the public through the following toll-free call-in number: 888–427–9376, conference ID: 1744905. Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. 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 invited and welcomed to make statements at the end of the conference call. In addition, members of the public may submit written comments; the comments must be received in the regional office within 30 days after the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Administrative Assistant, Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records and documents discussed during the meeting will be available for

public viewing prior to and after the meeting at *https://database.faca.gov/committee/meetings.aspx?cid=249* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

AGENDA:

Welcome and Introductions
Elizabeth Kronk Warner, Chair
Preparatory Discussion for Public Hearing on Voting Rights in Kansas
Kansas Advisory Committee
Open Comment
Public Participation
Adjournment

DATES: The meeting will be held on Thursday, November 19, 2015, at 12:00 p.m. CST.

PUBLIC CALL INFORMATION:

Dial: 888–427–9376
Conference ID: 1744905

FOR FURTHER INFORMATION CONTACT:

Melissa Wojnaroski, DFO, at 312–353–8311 or *mwojnaroski@usccr.gov*

Dated: October 29, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–27991 Filed 11–2–15; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Business R&D and Innovation Survey.

OMB Control Number: 0607–0912.

Form Number(s): BRDI–1, BRDI–1(S).

Type of Request: Revision of a currently approved collection.

Number of Respondents: BRDI–1 = 7,000; BRDI–1(S) = 38,000.

Average Hours per Response: BRDI–1 = 15 hours; BRDI–1(S) = 38 minutes.

Burden Hours: 126,500.

Needs and Uses: The Census Bureau is requesting clearance to conduct the Business R&D and Innovation Survey (BRDIS) for the 2015–2017 survey years with the revisions outlined in this document. Companies are the major performers of research and development (R&D) in the United States, accounting for over 70 percent of total U.S. R&D outlays each year. A consistent business R&D information base is essential to government officials formulating public policy, industry personnel involved in corporate planning, and members of the academic community conducting research. To develop policies designed to promote and enhance science and technology, past trends and the present status of R&D must be known and analyzed. Without comprehensive business R&D statistics, it would be impossible to evaluate the health of science and technology in the United States or to make comparisons between the technological progress of our country and that of other nations.

The National Science Foundation Act of 1950 as amended authorizes and directs the National Science Foundation (NSF) ''. . . to provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources and to provide a source of information for policy formulation by other agencies of the Federal government.'' One of the methods used by NSF to fulfill this mandate is The Business R&D and Innovation Survey (BRDIS)—the primary federal source of information on R&D in the business sector. NSF together with the Census Bureau, the collecting and compiling agent, analyze the data and publish the resulting statistics.

NSF has published annual R&D statistics collected from the Survey of Industrial Research and Development (1953–2007) and BRDIS (2008–2014) for 61 years. The results of the surveys are used to assess trends in R&D expenditures by industry sector, investigate productivity determinants, formulate science and tax policy, and compare individual company performance with industry averages. This survey is the Nation's primary source for international comparative statistics on business R&D spending.

BRDIS will continue to collect the following types of information:

- R&D expense based on accounting standards.
- Worldwide R&D of domestic companies.
- Business segment detail.
- R&D related capital expenditures.
- Detailed data about the R&D workforce.
- R&D strategy and data on the potential impact of R&D on the market.
- R&D directed to application areas of particular national interest.
- Data measuring innovation and intellectual property protection activities.

The following changes will be made to the 2015–2017 BRDIS compared to the 2014 BRDIS:

- Section 3: Adding question on domestic R&D performed by others and paid for by the Federal Government.
- Section 4: Deleting four questions on R&D with technology focus of photonics/optics.
- Section 4: Adding four questions on the Research/Development split for foreign R&D.

Information from BRDIS will continue to support the America COMPETES Reauthorization Act of 2010 as well as other R&D-related initiatives introduced during the clearance period. Other initiatives that have used BRDIS statistics include: The Innovation Measurement—Tracking the State of Innovation in the American Economy (U.S. Department of Commerce); Science of Science and Innovation Policy (NSF); and Rising Above the Gathering Storm (National Research Council).

Policy officials from many Federal agencies rely on these statistics for essential information. Businesses and trade organizations rely on BRDIS data to benchmark their industry's performance against others. For example, total U.S. R&D expenditures statistics have been used by the Bureau of Economic Analysis (BEA) to update the National Income and Product Accounts (NIPAs) and, in fact, the BEA recently has recognized and incorporated R&D as fixed investment in the NIPA. Accurate R&D data are needed to continue the development and effect subsequent updates to this detailed satellite account. Also, NSF, BEA and the Census Bureau periodically update a data linking project that utilizes BRDIS data to augment global R&D investment information that is obtained from BEA's Foreign Direct Investment (FDI) and U.S. Direct Investment Abroad (USDIA) surveys. Further, the Census Bureau links data collected by BRDIS with other statistical files. At the Census Bureau, historical company-level R&D data are linked to a file that contains information on the outputs and inputs of companies' manufacturing plants. Researchers are able to analyze the relationships between R&D funding and other economic variables by using micro-level data.

Individuals and organizations access the survey statistics via the Internet in annual InfoBriefs published by NSF's

National Center for Science and Engineering Statistics (NCSES) that announce the availability of statistics from each cycle of BRDIS and detailed statistical table reports that contain all of the statistics NSF produces from BRDIS. Information about the kinds of projects that rely on statistics from BRDIS is available from internal records of NSF's NCSES. In addition, survey statistics are regularly cited in trade publications and many researchers use the survey statistics from these secondary sources without directly contacting NSF or the Census Bureau.

Affected Public: Business or other for profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 8(b), 131, and 182, and Title 42, United States Code, Sections 1861–76 (National Science Foundation Act of 1950, as amended).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202)395–5806.

Dated: October 29, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–27962 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–119–2015]

Approval of Subzone Status Swisscosmet Corporation New Port Richey, Florida

On August 12, 2015, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the City of Tampa, grantee of FTZ 79, requesting subzone status subject to the existing activation limit of FTZ 79, on behalf of Swisscosmet Corporation in New Port Richey, Florida.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (80 FR 49985–49986, 8/18/2015). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 79D is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 79's 2,000-acre activation limit.

Dated: October 28, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–28030 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–69–2015]

Notification of Proposed Production Activity; Zale Delaware, Inc.; Subzone 39F; (Assembly of Jewelry) Irving, Texas

Zale Delaware, Inc. (Zale), operator of Subzone 39F, submitted a notification of proposed production activity to the FTZ Board for its facility in Irving, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on October 26, 2015.

The Zale facility is used for the distribution and assembly of jewelry and accessories. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Zale from customs duty payments on the foreign status components used in export production. On its domestic sales, Zale would be able to choose the duty rate during customs entry procedures that applies to finished diamond rings, diamond ear rings, necklaces and pendants (duty rate 5.5%) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: Cut diamonds, ring mounts, ear ring mounts, necklaces (rope and mixed link) and pendant mounts (duty rate ranges from duty-free to 5.8%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is December 14, 2015.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: October 28, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–28029 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Commerce.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for December 2015

The following Sunset Reviews are scheduled for initiation in December 2015 and will appear in that month's Notice of Initiation of Five-Year Sunset Review (''Sunset Review'').

	Department contact
Antidumping Duty Proceedings	
Petroleum Wax Candles from China (A–570–504) (4th Review)	Matthew Renkey, (202) 482–2312.

Countervailing Duty Proceedings

No Sunset Review of countervailing duty orders is scheduled for initiation in December 2015.

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in December 2015.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: October 27, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–28017 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Review

AGENCY: Enforcement and Compliance, International Trade Administration, Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating the five-year review (''Sunset Review'') of the antidumping and countervailing duty (''AD/CVD'') orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective:* November 1, 2015.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping and countervailing duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–570–890	731–TA–1058 PRC		Wooden Bedroom Furniture, (2nd Review).	Matthew Renkey, (202) 482–2312.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: ''*http://enforcement.trade.gov/sunset/.*'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''), can be found at 19 CFR 351.303.[1]

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in these segments.[3] The formats for the revised certifications are provided at the end of the *Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department modified two regulations related to AD/CVD proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information

[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

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

[3] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*'') (amending 19 CFR 351.303(g)).

(19 CFR 351.301).[4] Parties are advised to review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in these segments. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied. Parties are also advised to review the final rule concerning the extension of time limits for submissions in AD/CVD proceedings, available at *http://enforcement.trade.gov/frn/2013/1309frn/2013-22853.txt,* prior to submitting factual information in these segments.[5]

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d)). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (''APO'') to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.[6]

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: October 27, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–28003 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper

[4] *See Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013).

[5] *See Extension of Time Limits,* 78 FR 57790 (September 20, 2013).

[6] *See* 19 CFR 351.218(d)(1)(iii).

review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after November 2015, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of November 2015,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in November for the following periods:

	Period of review
Antidumping Duty Proceedings	
BRAZIL: Circular Welded Non-Alloy Steel Pipe, A–351–809	11/1/14–10/31/15
INDONESIA:.	
Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses, A–560–823	11/1/14–10/31/15
Monosodium Glutamate, A–560–826	5/8/14–10/31/15
MEXICO:	
Certain Circular Welded Non-Alloy Steel Pipe, A–201–805	11/1/14–10/31/15
Seamless Refined Copper Pipe and Tube, A–201–838	11/1/14–10/31/15
Steel Concrete Reinforcing Bar, A–201–844	4/24/14–10/31/15
REPUBLIC OF KOREA: Certain Circular Welded Non-Alloy Steel Pipe, A–580–809	11/1/14–10/31/15
TAIWAN:	
Certain Hot-Rolled Carbon Steel Flat Products, A–583–835	11/1/14–10/31/15
Certain Circular Welded Non-Alloy Steel Pipe, A–583–814	11/1/14–10/31/15
THAILAND: Certain Hot-Rolled Carbon Steel Flat Products, A–549–817	11/1/14–10/31/15
THE PEOPLE'S REPUBLIC OF CHINA:	
Certain Cut-to-Length Carbon Steel Plate, A–570–849	11/1/14–10/31/15
Certain Hot-Rolled Carbon Steel Flat Products, A–570–865	11/1/14–10/31/15
Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses, A–570–958	11/1/14–10/31/15
Diamond Sawblades and Parts Thereof, A–570–900	11/1/14–10/31/15
Fresh Garlic, A–570–831	11/1/14–10/31/15
Lightweight Thermal Paper, A–570–920	11/1/14–10/31/15
Monosodium Glutamate, A–570–992	5/8/14–10/31/15
Paper Clips, A–570–826	11/1/14–10/31/15
Polyethylene Terephthalate Film, Sheet and Strip, A–570–924	11/1/14–10/31/15
Pure Magnesium in Granular Form, A–570–864	11/1/14–10/31/15
Refined Brown Aluminum Oxide, A–570–882	11/1/14–10/31/15
Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe, A–570–956	11/1/14–10/31/15
Seamless Refined Copper Pipe and Tube, A–570–964	11/1/14–10/31/15
UKRAINE: Certain Hot-Rolled Carbon Steel Flat Products, A–823–811	11/1/14–10/31/15
UNITED ARAB EMIRATES: Polyethylene Terephthalate Film, Sheet and Strip, A–520–803	11/1/14–10/31/15
Countervailing Duty Proceedings	
INDONESIA: Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses, C–560–824	1/1/14–12/31/14
THE PEOPLE'S REPUBLIC OF CHINA:	
Chlorinated Isocyanurates, C–570–991	2/4/14–12/31/14
Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses, C–570–959	1/1/14–12/31/14
Lightweight Thermal Paper, C–570–921	1/1/14–12/31/14
Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe, C–570–957	1/1/14–12/31/14
Tow-Behind Lawn Groomers and Certain Parts Thereof,[2] C–570–940	1/1/14–8/2/14
TURKEY: Steel Concrete Reinforcing Bar, C–489–819	9/15/14–12/31/14
Suspension Agreements	
UKRAINE: Certain Cut-to-Length Carbon Steel Plate, A–823–808	11/1/14–10/31/15

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

[2] On August 3, 2015 (80 FR 45952), this order was inadvertently omitted from the opportunity notice for August cases. This order has been revoked effective 8/3/2014.

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) the Department clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[3]

Further, as explained in *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013), the Department clarified its practice with regard to the conditional review of the non-market economy (NME) entity in administrative reviews of antidumping duty orders. The Department will no longer consider the NME entity as an exporter conditionally subject to administrative reviews. Accordingly, the NME entity will not be under review unless the Department specifically receives a request for, or self-initiates, a review of the NME entity.[4] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity).

Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'') on Enforcement and Compliance's ACCESS Web site at *http://access.trade.gov*.[5] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of November 2015. If the Department does not receive, by the last day of November 2015, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: October 28, 2015.

Edward Yang,

Senior Director, Office VII for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–28028 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/*.

[4] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[5] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE125

Takes of Marine Mammals Incidental to Specified Activities; Marine Geophysical Survey in the Eastern Mediterranean Sea, Mid-November to December 2015

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) implementing regulations, we hereby give notice that we have issued an Incidental Harassment Authorization (Authorization) to Lamont-Doherty Earth Observatory (Lamont-Doherty), a component of Columbia University, in collaboration with the National Science Foundation (NSF), to take marine mammals, by harassment, in the eastern

Mediterranean Sea, mid-November through December 2015.

DATES: Effective November 19, 2015, through December 31, 2015.

ADDRESSES: A copy of the final Authorization and application and other supporting documents are available by writing to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, by telephoning the contacts listed here, or by visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm.*

The NSF prepared a draft Environmental Analysis in accordance with Executive Order 12114, ''Environmental Effects Abroad of Major Federal Actions'' for their proposed federal action. The environmental analysis titled ''Environmental Analysis of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the Eastern Mediterranean Sea, November–December 2015,'' prepared by LGL, Ltd. environmental research associates, on behalf of NSF and Lamont-Doherty is available at the same internet address.

NMFS prepared an Environmental Assessment (EA) titled, ''Proposed Issuance of an Incidental Harassment Authorization to Lamont-Doherty Earth Observatory to Take Marine Mammals by Harassment Incidental to a Marine Geophysical Survey in Eastern Mediterranean Sea, November–December 2015,'' in accordance with NEPA and NOAA Administrative Order 216–6. To obtain an electronic copy of these documents, write to the previously mentioned address, telephone the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or download the files at: *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm.*

NMFS also issued a Biological Opinion under section 7 of the Endangered Species Act (ESA) to evaluate the effects of the survey and Authorization on marine species listed as threatened and endangered. The Biological Opinion is available online at: *http://www.nmfs.noaa.gov/pr/consultations/opinions.htm.*

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, NMFS, Office of Protected Resources, NMFS (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after NMFS provides a notice of a proposed authorization to the public for review and comment: (1) NMFS makes certain findings; and (2) the taking is limited to harassment.

An Authorization shall be granted for the incidental taking of small numbers of marine mammals if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The Authorization must also set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat (*i.e.,* mitigation); and requirements pertaining to the monitoring and reporting of such taking. 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.''

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].

Summary of Request

On April 20, 2015, NMFS received an application from Lamont-Doherty requesting that NMFS issue an Authorization for the take of marine mammals, incidental to the University of Oregon conducting a seismic survey in the eastern Mediterranean Sea October through November 2015. Following the initial application submission, Lamont-Doherty submitted a revised application with new dates for the proposed survey (approximately mid-November through December, 2015). NMFS considered the revised application adequate and complete on August 25, 2015.

The proposed survey would take place partially within Greece's territorial seas (less than 6 nautical miles (nmi) [11 km; 7 mi] from the shore) and partially in the high seas. However, NMFS cannot authorize the incidental take of marine mammals in the territorial seas of foreign nations, as the MMPA does not apply in those waters. However, NMFS estimated the level of incidental take in the entire activity area (territorial seas and high seas) as part of the analysis supporting the agency's determination under the MMPA that the activity would have a negligible impact on the affected species.

Lamont-Doherty proposes to conduct a high-energy, seismic survey on the R/V *Marcus G. Langseth* (*Langseth*), a vessel owned by NSF and operated on its behalf by Columbia University's Lamont-Doherty in the eastern Mediterranean Sea for approximately 16 days from approximately mid-November 2015, through mid-December 2015. The following specific aspect of the proposed activity has the potential to take marine mammals: Increased underwater sound generated during the operation of the seismic airgun arrays. We anticipate that take, by Level B harassment, of 22 species of marine mammals could result from the specified activity. Although the unlikely, NMFS also anticipates that a small level of take by Level A harassment of four species of marine mammals could occur during the proposed survey.

Description of the Specified Activity

Overview

Lamont-Doherty plans to use one source vessel, the *Langseth,* an array of 36 airguns as the energy source, a receiving system of 93 ocean bottom seismometers (OBSs) for the northern portion of the proposed survey and a single 8-kilometer (km) hydrophone streamer for the southern portion of the proposed survey. In addition to the operations of the airguns, Lamont-Doherty intends to operate a multibeam echosounder and a sub-bottom profiler on the *Langseth* continuously throughout the proposed survey. However, Lamont-Doherty will not operate the multibeam echosounder and sub-bottom profiler during transits to and from the survey areas (*i.e.,* when the airguns are not operating).

The purpose of the survey is to collect and analyze seismic refraction data on and around the island of Santorini (Thira) to examine the crustal magma plumbing of the Santorini volcanic system. NMFS refers the public to Lamont-Doherty's application for more detailed information on the proposed research objectives which are purely

scientific in nature and not related to oil and natural gas exploration. The proposed survey's principal investigators are Drs. E. Hooft and D. Toomey (University of Oregon). The Santorini portion of the study also involves international collaboration with Dr. P. Nomikou (University of Athens) who would be onboard the *Langseth* during the entire seismic survey.

Dates and Duration

Lamont-Doherty proposes to conduct the seismic survey for approximately 30 days which includes approximately 16 days of seismic surveying, 11 days for OBS deployment/retrieval, and 1 day of hydrophone streamer deployment. The proposed study (*e.g.,* equipment testing, startup, line changes, repeat coverage of any areas, and equipment recovery) would include approximately 384 hours of airgun operations (*i.e.,* 16 days over 24 hours). Some minor deviation from Lamont-Doherty's requested dates of mid-November through December 2015 is possible, depending on logistics, weather conditions, and the need to repeat some lines if data quality is substandard. Thus, the proposed Authorization, if issued, would be effective from November 19 through December 31, 2015.

Specified Geographic Region

Lamont-Doherty proposes to conduct one portion of the proposed seismic survey in the Aegean Sea, located approximately between 36.1–36.8° N. and 24.7–26.1° .E in the eastern Mediterranean Sea. Water depths in the Aegean Sea survey area are approximately 20 to 500 meters (m) (66 to 1,640 feet (ft)). Lamont-Doherty would conduct the second portion of the proposed seismic survey over the Hellenic subduction zone which starts in the Aegean Sea at approximately 36.4° N., 23.9° E. and runs to the southwest, ending at approximately 34.9° N., 22.6° E. Water depths in that area range from 1,000 to 3,000 m (3,280 to 9,843 ft). Lamont-Doherty would conduct the proposed seismic survey within the Exclusive Economic Zone (EEZ) and territorial waters of Greece. Greece's territorial seas extend out to six nautical miles (nmi) (7 miles [mi]; 11 kilometers [km]).

Detailed Description of the Specified Activities

Transit Activities

The *Langseth* would depart from Piraieus, Greece in November 2015 and spend one day in transit to the proposed survey areas. At the conclusion of the survey, the *Langseth* would arrive at Iraklio, Crete. Some minor deviation from these dates is possible, depending on logistics and weather.

Vessel Specifications

NMFS outlined the vessel's specifications in the notice of proposed Authorization (80 FR 53623, September 4, 2015). NMFS does not repeat the information here as the vessel's specifications have not changed between the notice of proposed Authorization and this notice of an issued Authorization.

Data Acquisition Activities

NMFS outlined the details regarding Lamont-Doherty's data acquisition activities using the airguns, multibeam echosounder, and the sub-bottom profiler in the notice of proposed Authorization (80 FR 53623, September 4, 2015). NMFS does not repeat the information here as the data acquisition activities have not changed between the notice of proposed Authorization and this notice of an issued Authorization.

For a more detailed description of the authorized action, including vessel and acoustic source specifications, metrics, characteristics of airgun pulses, predicted sound levels of airguns, etc., please see the notice of proposed Authorization (80 FR 53623, September 4, 2015) and associated documents referenced above this section.

Comments and Responses

NMFS published a notice of receipt of Lamont-Doherty's application and proposed Authorization in the **Federal Register** on September 4, 2015 (80 FR 53623). During the 30-day public comment period, NMFS received comments from the following: Prof. Efthimios Lekkas, Department of Geology and Geo Environment, University of Athens; the Geological Society of Greece; the Earthquake Planning and Protection Organization (EPPO); Anastasios N. Zorzos, Mayor of the Island of Santorini (Thira); the Marcus Langseth Science Oversight Committee (MLSOC); the Marine Mammal Commission (Commission); OceanCare; Oceanomare Delphis Onlus (ODO); the Natural Resources Defense Council (NRDC) and Whale and Dolphin Conservation (WDC). OceanCare, ODO, NRDC, and WDC referenced several journal articles and documents within their comment letters. NMFS considered these articles and documents within the final analyses but does not intend to address each one specifically in this Response to Comments section. NMFS has posted the comments online at: *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm.*

NMFS addresses any comments specific to Lamont-Doherty's application related to the statutory and regulatory requirements or findings that NMFS must make under the MMPA in order to issue an Authorization. Following is a summary of the public comments and NMFS' responses.

Compliance With International Guidelines

Comment 1: NMFS received letters from two Greek organizations, one Greek citizen, and the mayor of Santorini requesting that NMFS issue the Authorization to Lamont-Doherty. The Geological Society of Greece stated that both the Ministry of Foreign Affairs of the Hellenic Republic and the Greek Committee for Granting Sea Research Licenses (EXAEO) had approved Lamont-Doherty's conduct of the survey within Greece's Exclusive Economic Zone (EEZ) and surrounding international waters. The commenters state that Lamont-Doherty's project, approved by the Greek government, would minimize impacts on marine life by following all standard monitoring and mitigation measures for seismic surveys as listed in the Greek Ministry of Foreign Affairs vessel clearance document and any additional requirements established by NMFS' Authorization.

Response: NMFS acknowledges the comments from Prof. Lekkas, the Geological Society of Greece, the EPPO, and Mayor Zorzos and thanks them for their comments. NMFS confirmed through the U.S. State Department that Lamont-Doherty sought approval from the Ministry of Foreign Affairs of the Hellenic Republic to conduct the proposed seismic survey. Greece's foreign vessel clearance process required Lamont-Doherty to submit an environmental analysis which evaluated the potential effects of the proposed activity on marine species and described the monitoring and mitigation measures for lessening impacts on marine mammals. On June 2, 2015, Greece granted permission to Lamont-Doherty to conduct the proposed seismic survey in areas of Greek jurisdiction provided that Lamont-Doherty complies with the specific terms and conditions of the issued vessel clearance including ''compliance with Greek national legislation (in particular Greek Law Nos. 2971/2001 and 3028/2002) and all international regulations, including the ACCOBAMS (Agreement on the Conservation of Cetaceans in the Black Sea Mediterranean Sea and Contiguous

Atlantic Area) international guidelines on the protection of marine mammals''.

Lamont-Doherty is not only following mitigation and monitoring measures for marine mammals required under international regulations but must also implement mitigation measures as required by NMFS' issued Authorization in the waters outside the Greek territorial sea per the MMPA. NMFS analyzed the proposed seismic survey in accordance with the MMPA, the Endangered Species Act (ESA), and National Environmental Policy Act (NEPA). Under those statutes, NMFS analyzed the impacts to marine mammals (including those listed as threatened or endangered under the ESA), their habitat, and to the availability of marine mammals for taking for subsistence uses. The MMPA analyses concluded that the activities would have a negligible impact on affected marine mammal species or stocks and would not have an unmitigable adverse impact on the availability of marine mammals for taking for subsistence uses (which is not applicable in this case). The ESA analysis concluded that the activities likely would not jeopardize the continued existence of ESA-listed species or destroy or adversely modify designated critical habitat. The NEPA analysis concluded that there would not be a significant impact on the human environment. Moreover, NMFS does not expect this activity to result in the death of any marine mammal species and has not authorized take by serious injury or mortality.

Comment 2: The MSLOC requested that NMFS issue the Authorization to Lamont-Doherty in a timely manner; described Lamont-Doherty's monitoring and mitigation measures for marine mammals; and stated that those measures were reasonable and consistent with, or more conservative than, internationally-accepted standards and guidelines implemented by the United Kingdom, Canada, Brazil, Australia, New Zealand, Denmark, and Norway.

Response: NMFS acknowledges the MSLOC's comments and agrees that many of the mitigation measures proposed by Lamont-Doherty are consistent with many international standards and guidelines. NMFS issued this Authorization in accordance with the MMPA and the ESA. After careful evaluation of all comments and the data and information available regarding potential impacts to marine mammals and their habitat and to the availability of marine mammals for subsistence uses, NMFS has issued the final authorization to Lamont-Doherty to take marine mammals incidental to conducting a seismic survey in the eastern Mediterranean Sea for the period November 19 through December 31, 2015. As required by the MMPA, the Authorization sets forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat (*i.e.,* mitigation); and requirements pertaining to the monitoring and reporting of such taking.

Comment 3: The NRDC, WDC, OceanCare, and Oceanomare Delphis Onlus submitted statements of concern that NMFS' proposed Authorization and NSF's draft environmental analysis did not consider the ACCOBAMS Resolutions 4.17, *Guidelines to Address the Impact of Anthropogenic Noise on Cetaceans in the ACCOBAMS Area* and 5.15, *Addressing the impact of Anthropogenic Noise.* Specifically, NRDC stated that the proposed Authorization and draft environmental analysis did not follow the guidelines for extra mitigation for beaked whales in deep water areas.

Response: See NMFS' response to Comment 1. Under the MMPA, NMFS does not have the jurisdiction to require an applicant to comply with ACCOBAMS resolutions because the U.S. is not party to that particular convention. However, NMFS notes that ACCOBAMS Resolution 4.17 based their guidelines for seismic surveys and airgun uses on ''. . . guidelines for mitigating the effects of seismic surveys . . . in the context of academic seismic surveys conducted under NMFS' permits.''

NMFS described Lamont-Doherty's proposed mitigation and monitoring measures in the notice of proposed authorization (80 FR 53623, September 4, 2015) as well as additional mitigation measure required by NMFS to effect the least practicable adverse impact on marine mammals. Despite some minor differences between implementation of NMFS' requirements under the MMPA and ESA for seismic surveys and those listed under ACCOBAMS Resolution 4.17, the overall guidelines required for seismic surveys are nearly identical. For example, Resolution 4.17 lists 19 guidelines (a–s) for seismic surveys and airgun uses. One guideline (r) is not applicable to this action as it covers multiple seismic survey operations and NMFS' requirements under the MMPA and ESA closely track to the additional 16 guidelines (a, b, c, d, f, g, h, i, j, k, l, m, n, o, p, q, and s) for marine mammals.

As stated previously in Comment 1, the Ministry of Foreign Affairs of the Hellenic Republic granted Lamont-Doherty permission to conduct the proposed seismic survey in areas of Greek jurisdiction provided that they comply with all international regulations, including ACCOBAMS Resolution 4.17 (m), *Guidelines for Seismic Surveys and Airgun Uses* which requires vessels to monitor for beaked whales for a duration of 120 minutes and initiate a ramp up of the airgun array 120 minutes after a beaked whale sighting within Greek jurisdictional waters. NSF plans to abide by this requirement within Greek territorial seas. NMFS' mitigation measure of initiating a ramp-up of the airgun array 30 minutes after a large odontocete sighting would apply in the high seas. NMFS expects that our normal requirement of waiting 30 minutes to initiate a ramp-up is sufficient to effect the least practicable adverse impact on marine mammals. The *Langseth's* observers are continually monitoring the exclusion zone. On average, observers can observe to the horizon (10 km; 6.2 mi) from the height of the *Langseth's* observation deck and should be able to say with a reasonable degree of confidence whether a marine mammal would be encountered within this distance before resuming airgun operations at full power. Last, as standard practice, the MMPA Authorization and the ESA Biological Opinion require Lamont-Doherty to cooperate with the Greek authorities in monitoring the impacts of the proposed activity on marine mammals.

Comment 4: NRDC/WDC state that the proposed survey occurs within two proposed Ecologically or Biologically Significant Areas (EBSAs) under the Convention on Biological Diversity (CBD) and state that the proposed Authorization contradicts the CBD's conservation priorities. OceanCare and ODO also submitted background information on EBSAs in their comments, stated that the Central Aegean Sea and Hellenic Trench were critical habitat for Mediterranean monk seals, and indicated that the proposed activities were unacceptable.

Response: NMFS acknowledges the commenters' concerns and refers them to NSF's draft environmental analysis (see pages 17–19) which presents information on marine protected areas within the proposed action area. However, the submitted comments did not provide any specific recommendations or criticisms regarding the sufficiency of NSF's analysis.

The CBD aims to address conservation of open-ocean and deep-sea ecosystems using the concept of EBSAs (Clark *et al.,* 2014). The Parties to the CBD approved

the adoption of seven criteria: Uniqueness or rarity, special importance for life history stages of species; importance for threatened, endangered or declining species and/or habitats; vulnerability, fragility, sensitivity, or slow recovery; biological productivity; biological diversity; and naturalness for identifying EBSAs (CBD, 2008). Although EBSAs do not necessarily imply that a management response is required (Clark *et al.,* 2014), the CBD intended them to provide an initial basis for a network of protected areas (CBD, 2008) that would undergo review by the United Nations General Assembly for future stewardship recommendations (WWF, 2012).

The U.S. is not a party to the Convention, and NMFS does not have the authority to require an applicant for an MMPA Authorization to comply with the CBD. Again, NMFS' mitigation measures are sufficient to effect the least practicable adverse impact on marine mammals in the two EBSAs. Further, as a condition of vessel clearance from the Greek government, Lamont-Doherty would also comply with Greek legislation, in particular Greek Law Nos. 2971/2001 and 3028/2002, which regulate the protection of coastal ecosystems.

Modeling Exclusion and Buffer Zones

Comment 5: The Commission expressed concerns regarding Lamont-Doherty's method to estimate exclusion and buffer zones using a ray trace-based model. They stated that the model is not conservative because it assumes spherical spreading, a constant sound speed, and no bottom interactions instead of collecting empirical sound source and sound propagation measurements and incorporating site-specific environmental characteristics (*e.g.,* sound speed profiles, refraction, bathymetry/water depth, sediment properties/bottom loss, or absorption coefficients) into their model. In light of their concerns, the Commission recommended that NMFS require Lamont-Doherty to re-estimate the proposed exclusion and buffer zones using site-specific environmental and operational parameters.

Response: NMFS acknowledges the Commission's concerns about Lamont-Doherty's current modeling approach for estimating exclusion and buffer zones and also acknowledge that Lamont-Doherty did not incorporate site-specific sound speed profiles, bathymetry, and sediment characteristics of the research area in the current approach to estimate those zones for this proposed seismic survey.

Lamont-Doherty's application (LGL, 2015) and the NSF's draft environmental analyses (NSF, 2015) describe the approach to establishing mitigation exclusion and buffer zones. In summary, Lamont-Doherty acquired field measurements for several array configurations at shallow- and deep-water depths during acoustic verification studies conducted in the northern Gulf of Mexico in 2003 (Tolstoy *et al.,* 2004) and in 2007 and 2008 (Tolstoy *et al.,* 2009). Based on the empirical data from those studies, Lamont-Doherty developed a sound propagation modeling approach that conservatively predicts received sound levels as a function of distance from a particular airgun array configuration in deep water. For this proposed survey, Lamont-Doherty developed the exclusion and buffer zones for the airgun array based on the empirically-derived measurements from the Gulf of Mexico calibration survey (Fig. 5a in Appendix H of the NSF's 2011 PEIS). Based upon the best available information (*i.e.,* the three data points, two of which are peer-reviewed, discussed in this response), NMFS finds that the exclusion and buffer zone calculations are appropriate for use in this particular survey.

In 2015, Lamont-Doherty explored solutions to this issue by conducting a retrospective sound power analysis of one of the lines acquired during Lamont-Doherty's seismic survey offshore New Jersey in 2014 (Crone, 2015). NMFS presented a comparison of the predicted radii (*i.e.,* modeled exclusion zones) with radii based on in situ measurements (*i.e.,* the upper bound [95th percentile] of the cross-line prediction) in a previous notice of issued Authorization (see Table 1, 80 FR 27635, May 14, 2015) for Lamont-Doherty.

Briefly, Crone's (2015) preliminary analysis, specific to the proposed survey site offshore New Jersey, confirmed that in-situ, site specific measurements and estimates of the 160- and 180-decibel (dB) isopleths collected by the *Langseth's* hydrophone streamer in shallow water were smaller than the modeled (*i.e.,* predicted) exclusion and buffer zones proposed for use in two seismic surveys conducted offshore New Jersey in shallow water in 2014 and 2015. In that particular case, Crone's (2015) results show that Lamont-Doherty's modeled exclusion (180-dB) and buffer (160-dB) zones were approximately 28 and 33 percent smaller than the in situ, site-specific measurements confirming that Lamont-Doherty's model was conservative, as emphasized by Lamont-Doherty in its application and in supporting environmental documentation. Following is a summary of two additional analyses of in-situ data that support Lamont-Doherty's use of the modeled exclusion and buffer zones in this particular case.

In 2010, Lamont-Doherty assessed the accuracy of their modeling approach by comparing the sound levels of the field measurements acquired in the Gulf of Mexico study to their model predictions (Diebold *et al.,* 2010). They reported that the observed sound levels from the field measurements fell almost entirely below the predicted mitigation radii curve for deep water (greater than 1,000 meters [m]; 3280.8 feet [ft]) (Diebold *et al.,* 2010).

In 2012, Lamont-Doherty used a similar process to model exclusion and buffer zones for a shallow-water seismic survey in the northeast Pacific Ocean offshore Washington in 2012. Lamont-Doherty conducted the shallow-water survey using the same airgun configuration proposed for this seismic survey (*i.e.,* 6,600 cubic inches [in^3]) and recorded the received sound levels on the shelf and slope off Washington State using the *Langseth's* 8-kilometer (km) hydrophone streamer. Crone *et al.* (2014) analyzed those received sound levels from the 2012 survey and confirmed that in-situ, site specific measurements and estimates of the 160- and 180-dB isopleths collected by the *Langseth's* hydrophone streamer in shallow water were two to three times smaller than what Lamont-Doherty's modeling approach predicted. While the results confirm bathymetry's role in sound propagation, Crone *et al.* (2014) were able to confirm that the empirical measurements from the Gulf of Mexico calibration survey (the same measurements used to inform Lamont-Doherty's modeling approach for this seismic survey in the Mediterranean Sea) overestimated the size of the exclusion and buffer zones for the shallow-water 2012 survey off Washington and were thus precautionary, in that particular case.

At present, Lamont-Doherty cannot adjust their modeling methodology to add the environmental and site-specific parameters as requested by the Commission. NMFS continues to work with Lamont-Doherty and the NSF to address the issue of incorporating site-specific information to further inform the analysis and development of mitigation measures in oceanic and coastal areas for future seismic surveys with Lamont-Doherty. Also, NMFS will continue to work with Lamont-Doherty, the NSF, and the Commission on continuing to verify the accuracy of

their modeling approach. However, Lamont-Doherty's current modeling approach (supported by the three data points discussed previously) represents the best available information for NMFS to reach determinations for the Authorization. As described earlier, the comparisons of Lamont-Doherty's model results and the field data collected in the Gulf of Mexico, offshore Washington, and offshore New Jersey illustrate a degree of conservativeness built into Lamont-Doherty's model for deep water, which NMFS expects to offset some of the limitations of the model to capture the variability resulting from site-specific factors.

Lamont-Doherty has conveyed to NMFS that additional modeling efforts to refine the process and conduct comparative analysis may be possible with the availability of research funds and other resources. Obtaining research funds is typically through a competitive process, including those submitted to U.S. Federal agencies. The use of models for calculating buffer and exclusion zone radii and for developing take estimates is not a requirement of the MMPA incidental take authorization process. Furthermore, NMFS does not provide specific guidance on model parameters nor prescribes a specific model for applicants as part of the MMPA incidental take authorization process at this time. There is a level of variability not only with parameters in the models, but also the uncertainty associated with data used in models, and therefore, the quality of the model results submitted by applicants. NMFS considers this variability when evaluating applications. Applicants use models as a tool to evaluate potential impacts, estimate the number of, and type of takes of marine mammals, and for designing mitigation. NMFS takes into consideration the model used and its results in determining the potential impacts to marine mammals; however, it is just one component of the analysis during the MMPA consultation process as NMFS also takes into consideration other factors associated with the proposed action, (*e.g.,* geographic location, duration of activities, context, intensity, etc.).

Comment 6: NRDC/WDC commented that Lamont-Doherty should have considered local propagation features to predict sound propagation characteristics and used that information to estimate the proposed exclusion zones. The commenters noted that a recent reviews presented information on behavioral disruption of marine mammals occurring below the 160-dB Level B threshold (Nowacek *et al.,* 2015; DeRuiter *et al.,* 2013; and Kastelein *et al.,* 2012) and stated that the exclusion zone and take estimates were not accurate and not conservative. NRDC/WDC also stated that NMFS should modify the current thresholds and base them on the best available science (*i.e.,* centering the behavioral risk function at 140 dB (RMS) instead of 160 dB).

Response: Please see NMFS' response to Comment 4 with respect to Lamont-Doherty modeling proposed exclusion zones.

NMFS considered Nowacek *et al.'*s (2015) review in making our final determinations. Their review presents several recommendations including the establishment of a uniform set of international standards to manage ocean noise; the recognition of ocean noise as a pollutant; and the management of ocean noise through a revision to the existing International Convention on the Prevention of Pollution from Ships. NMFS notes that Nowacek *et al.'*s (2015) review primarily focused on simultaneous seismic surveys for oil and gas exploration conducted over large spatial and temporal scales and did not particularly focus on the conduct of smaller, one-time, academic research seismic surveys such as the one proposed by Lamont-Doherty in the eastern Mediterranean Sea. Nowacek *et al.* (2015) also discussed the use of appropriate impact thresholds and the need for regulatory agencies to accept a new paradigm for assessing acoustic impacts and move beyond the use of acute impact thresholds.

NMFS is constantly evaluating new science and how to best incorporate it into our decisions. This process involves careful consideration of new data and how it is best interpreted within the context of a given management framework. These papers and the studies discussed in our notice of proposed authorization (80 FR 53623, September 4, 2015) emphasize the importance of context (*e.g.,* behavioral state of the animals, distance from the sound source, etc.) in evaluating behavioral responses of marine mammals to acoustic sources and note that there is variability in the behavioral responses of marine mammals to noise exposure. However, it is important to consider the context in predicting and observing the level and type of behavioral response to anthropogenic signals (Ellison *et al.,* 2012). There is potential for responses to occur below 140 dB and NMFS considered papers and studies in the notice of proposed authorization (80 FR 53623, September 4, 2015) that note that there is variability in the behavioral responses of marine mammals to sound exposure. On the other hand, there are many studies showing that marine mammals do not show behavioral responses when exposed to multiple pulses at received levels at or above 160 dB re: 1 µPa (*e.g.,* Malme *et al.,* 1983; Malme *et al.,* 1984; Richardson *et al.,* 1986; Akamatsu *et al.,* 1993; Madsen and Mohl, 2000; Harris *et al.,* 2001; Miller *et al.,* 2005; and Wier, 2008). And other studies show that whales continue important behaviors in the presence of seismic pulses (*e.g.,* Richardson *et al.,* 1986; McDonald *et al.,* 1995; Greene *et al.,* 1999a, 1999b; Nieukirk *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005, 2006; Dunn and Hernandez, 2009).

With respect to the use of current thresholds, NMFS' practice has been to apply the 160 dB re: 1 µPa received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Specifically, NMFS derived the 160 dB threshold data from mother-calf pairs of migrating gray whales (Malme *et al.,* 1983, 1984) and bowhead whales (Richardson *et al.,* 1985, 1986) responding to seismic airguns.

NMFS discusses the science on this issue qualitatively in our analysis of potential effects to marine mammals (80 FR 53623, September 4, 2015). Accordingly, it is not a matter of merely replacing the existing threshold with a new one. NMFS is currently developing revised acoustic guidelines for assessing the effects of anthropogenic sound on marine mammals. Until NMFS finalizes these guidelines (a process that includes public notice and comment and peer review), NMFS will continue to rely on the existing criteria for Level A and Level B harassment shown in Table 4 of the notice for the proposed authorization (80 FR 53623, September 4, 2015).

As mentioned in the **Federal Register** notice for the proposed authorization (80 FR 53623, September 4, 2015), we expect that the onset for behavioral harassment is largely context dependent (*e.g.,* behavioral state of the animals, distance from the sound source, etc.) when evaluating behavioral responses of marine mammals to acoustic sources. Although using a single sound pressure level of 160-dB re: 1 µPa for the onset of behavioral harassment for impulse noises may not capture all of the nuances of different marine mammal reactions to sound, it is an appropriate way to manage and regulate anthropogenic noise impacts on marine mammals until NMFS implements its acoustic guidelines.

With regards to the information presented in DeRuiter *et al.* (2013) for beaked whales and in Kastelein *et al.*

(2012) for harbor porpoises. NMFS considered the significance of these articles within the environmental assessment for this proposed survey (NMFS, 2015) and in previous notices of issued authorizations for Lamont-Doherty (79 FR 38496 and 80 FR 27635, May 14, 2015).

DeRuiter *et al.* (2013) observed that beaked whales (considered a particularly sensitive species) exposed to playbacks (*i.e.,* simulated) of U.S. Navy tactical mid-frequency active sonar from 89 to 127 dB re: 1 μPa at close distances responded notably by altering their dive patterns. In contrast, individuals showed no behavioral responses when exposed to similar received levels from actual U.S. Navy tactical mid-frequency active sonar operated at much further distances (DeRuiter, *et al.,* 2013). As noted earlier, one must consider the importance of context (*e.g.,* the distance of a sound source from the animal) in predicting behavioral responses.

With regards to Kasetlein *et al.* (2012), NMFS recognizes that behavioral responses for a harbor porpoise occurs at lower levels than for other cetacean species empirically tested (Finneran & Schlundt, 2010; Finneran *et al.,* 2002; Kastelein & Jennings, 2012, Kastelein *et al.,* 2012; Kastelein *et al.,* 2013). However, Kastelein *et al.,* (2014) stated that for the harbor porpoise, after small reductions in hearing sensitivity (threshold shifts less than 15 dB), recovery was relatively quick (within 60 minutes) and in most cases, reduced hearing for such a short time period (if it does not occur many times per day) may have little effect on the ecology of a harbor porpoise (Kastelein *et al.,* 2014).

Limited available data suggest that harbor porpoises show avoidance of seismic operations. Based on data collected by observers on seismic vessels off the United Kingdom from 1994 to 2010, detection rates of harbor porpoises were significantly higher when airguns were silent versus when large or small arrays were operating; in addition, observers noted that harbor porpoises were farther away from an active array versus when it was silent and were most often seen traveling away from the airgun array when it was in operation (Stone, 2015). Thompson *et al.* (2013) reported decreased densities and reduced acoustic detections of harbor porpoise in response to a seismic survey in Moray Firth, Scotland at ranges of 5 to 10 km (165–172 dB (SPL); 145–151 dB (SEL). For the same survey, Pirotta *et al.* (2014) reported that the probability of recording harbor porpoise buzzes decreased by 15 percent in the ensonified area. Taking this into consideration, NMFS expects that harbor porpoises would avoid the area around the proposed survey operations effectively reducing the likelihood of auditory injury and the potential of Level A harassment to the airgun array (Hermannsen *et al.,* 2015; Touggard *et al.,* 2012). Thus, NMFS would expect all of the effects to harbor porpoises to result in short-term changes in behavior, falling within the MMPA definition of ''Level B harassment.''

NMFS acknowledges that there is more recent information available bearing on the relevant exposure levels for assessing temporary and permanent hearing impacts. (See **Federal Register** notice 80 FR 45642, July 31, 2015: Draft Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing-Acoustic Threshold Levels for Onset of Permanent and Temporary Threshold Shifts). Again, NOAA will be issuing new acoustic guidelines, but that process is not complete (*i.e.,* NOAA expects the guidance to be finalized until late 2015), so NMFS did not use it to assign new thresholds for calculating take estimates for hearing impacts. Moreover, the required mitigation measures ensure there are no exposures at levels thought to cause permanent hearing impairment, and, for several of the marine mammal species in the project area, mitigation measures would reduce exposure to current Level B harassment thresholds.

Effects Analysis

Comment 7: NRDC/WDC commented that NSF's draft environmental analysis did not adequately evaluate the cumulative actions and effects from past and present sources with respect to ACCOBAMS Resolution 4.17 which ''encourages Parties to address fully the issue of anthropogenic noise in the marine environment, including cumulative effects, in the light of the best scientific information available and taking into consideration the applicable legislation of the Parties, particularly as regards the need for thorough environmental impact assessments being undertaken before granting approval to proposed noise-producing activities.''

Response: Lamont-Doherty and the NSF submitted an environmental analysis (NSF, 2015) on the proposed survey to the Ministry of Foreign Affairs of the Hellenic Republic through the U.S. State Department in May, 2015. The draft environmental analysis evaluated the potential effects of the proposed activity on marine species and included information about potential cumulative effects (see Chapter IV, pages 63 through 67) including past and future academic seismic research, vessel traffic, fisheries, military activities, and oil and gas activities in the action area. The Hellenic Republic (Greece), a party to ACCOBAMS, granted approval to Lamont-Doherty to conduct the proposed seismic survey in areas of Greek jurisdiction on June 2, 2015. Again, Greece granted this authority to Lamont-Doherty provided that they comply with the specific terms and conditions of the issued vessel clearance including compliance with Greek national legislation (in particular Greek Law Nos. 2971/2001 and 3028/2002) and all international regulations, including the ACCOBAMS (Agreement on the Conservation of Cetaceans in the Black Sea Mediterranean Sea and Contiguous Atlantic Area) international guidelines on the protection of marine mammals.

Comment 8: NRDC/WDC stated that NMFS did not consider the cumulative effects of the use of the multibeam echosounder, sub-bottom profiler, and the ocean-bottom seismometer acoustic release system and did not consider take estimates for these sources. Commenters also provided statements on mass stranding events associated or potentially linked with use of a multi-beam echosounder during seismic exploration activities off the coast of Madagascar in 2008 and in the Gulf of California in 2002.

Response: NMFS disagrees with the commenters' statements. NMFS assessed the potential for the operation of the multi-beam echosounder and sub-bottom profiler to impact marine mammals in notice for the proposed authorization (80 FR 53623, September 4, 2015). NMFS assumes that during simultaneous operations of the airgun array and the other sources, the airguns would be the primary source of acoustic harassment given the characteristics of the multi-beam echosounder and sub-bottom profiler (*e.g.,* narrow, downward-directed beam) and the proximity of marine mammals to those sources. NMFS does not expect the sound levels produced by the echosounder and sub-bottom profiler to exceed the sound levels produced by the airguns. However, whether or not the airguns are operating simultaneously with the other sources, marine mammals are expected to exhibit no more than short-term and inconsequential responses to the multi-beam echosounder and sub-bottom profiler given their characteristics. Therefore, NMFS has not authorized take from the multi-beam echosounder and sub-bottom profiler. NMFS' notice for the proposed authorization (80 FR

53623, September 4, 2015) states that the multi-beam echosounder and sub-bottom profiler will not operate during transits at the beginning and end of the planned seismic survey.

As for ocean bottom seismometers, NMFS considered the brief (8 milliseconds) acoustic signals emanating from the devices at the time of retrieval to be so brief as to not risk masking other acoustic information relevant to marine mammals. Therefore, NMFS has not authorized take from the acoustic release signals from ocean bottom seismometers.

NMFS considered the potential for behavioral responses such as the Madagascar stranding and indirect injury or mortality from Lamont-Doherty's use of the multibeam echosounder in the notice for the proposed authorization (80 FR 53623, September 4, 2015, see Potential Effects of Other Acoustic Devices, pages 53636–53637). NMFS does not repeat that information here, but notes that the International Scientific Review Panel tasked to investigate the stranding stated that the risk of using multi-beam echosounders may be very low given the extensive use of these systems worldwide on a daily basis and the lack of direct evidence of such responses previously reported (Southall, *et al.,* 2013; Lurton, 2015, 2016).

NMFS notes that the multi-beam in use on this seismic survey is not operating in the same way as it was in Madagascar. The Authorization requires Lamont-Doherty to plan to conduct the seismic surveys (especially when near land) from the coast (inshore) and proceed towards the sea (offshore) in order to avoid the potential herding ''herding of sensitive species'' into canyons and other similar areas.

Regarding the 2002 stranding event in the Gulf of California, the multi-beam echosounder system was on a different vessel, the R/V *Maurice Ewing* (*Ewing*), which is a vessel no longer operated by Lamont-Doherty. Although NRDC/WDC suggest that the multi-beam echosounder system or other acoustic sources on the *Ewing* may have been associated with the 2002 stranding of two beaked whales, as noted in Cox *et al.* (2006), ''whether or not this survey caused the beaked whales to strand has been a matter of debate because of the small number of animals involved and a lack of knowledge regarding the temporal and spatial correlation between the animals and the sound source.'' As noted by Yoder (2002), there was no scientific linkage to the event with the *Ewing's* activities and the acoustic sources used.

Comment 9: OceanCare and ODO state that NMFS did not consider the ''impacts of reduced prey availability forcing animals to cease feeding or harassment forcing the abandonment of pups.''

Response: NMFS considered the effects of the survey on marine mammal prey (*i.e.,* fish and invertebrates), as a component of marine mammal habitat in the notice for the proposed authorization (80 FR 53623, September 4, 2015, see Anticipated Impacts on Marine Mammal Habitat, pages 53639–53641). The comment does not provide any specific recommendations or criticisms regarding the sufficiency of those analyses. Moreover, the NSF also addressed the potential effects of this action in the draft environmental analysis (NSF, 2015) which NMFS incorporates by reference in this notice.

In addition to the information presented in the notice for the proposed authorization (80 FR 53623, September 4, 2015), NMFS also considered recent studies that assessed foraging energetics (Melcon *et al.,* 2012; Goldbogen *et al.,* 2013; New *et al.,* 2013, 2014) in marine mammals. The most relevant New *et al.* (2014) study used a simulation model to assess how behavioral disruptions (*e.g.,* significant disruption of foraging behavior) and the exclusion of maternal southern elephant seals (*Mirounga leonine*) foraging habitat could affect health, offspring survival, individual fitness, and population growth rate. The authors suggested their model can determine the population consequences of disturbance from short-term changes in individual animals. Their model assumed that disturbance affected behavior by reducing the number of drift dives in which the animals were feeding and increasing the time they spent in transit. For example, they suggested a disturbance lasting 50 percent of an average annual foraging trip would reduce pup survival by 0.4 percent. If this level of disturbance continued over 30 years and the population did not adapt, the authors found that the population size would decrease by approximately 10 percent.

The findings of New *et al.* (2014) are not applicable to the temporary behavioral disruptions that could potentially result from a proposed 16-day seismic survey versus the study's assessments of effects over one year and a persistent disruption of a 30-year period. First, the model assumed that individuals would be unable to compensate for lost foraging opportunities. Available empirical data does not confirm this would be the case. For example, elephant seals are unlikely to be affected by short-term variations in prey availability because they take long foraging trips, allowing for some margin of error in prey availability ((Costa, 1993), as cited in New *et al.,* 2014). Similarly, female Mediterranean monk seals also have the ability to take foraging trips up to 70 km (43 miles) (Adamantopoulou *et al.,* 2011) which NMFS expects would buffer foraging mothers from short-term variations in prey availability within the action area ((Costa, 1993), as cited in New *et al.,* 2014). NMFS has no information to suggest that an animal eliciting a behavioral response (*e.g.,* temporary disruption of feeding) to the proposed seismic survey would be unable to compensate for this temporary disruption in feeding activity by either immediately feeding at another location, by feeding shortly after cessation of acoustic exposure, or by feeding at a later time. Additionally, the behavioral disruption marine mammals reasonably expected to occur due to Lamont-Doherty's proposed activities would not have as long of a duration as the two scenarios considered in the New *et al.,* (2014) study.

Comment 10: The Commission states that NMFS based the number of Mediterranean monk seal instances of exposure (shown in Tables 5 and Table 6 in the notice of proposed authorization) on the maximum estimated number of individual monk seals that could be present within the action area rather than accounting for the extent of the ensonified area and the number of days of activities—an approach the Commission supports for NMFS' negligible impact determination for Mediterranean monk seals. OceanCare and ODO also state that the assumptions of impacts to Mediterranean monk seals could be higher.

Response: NMFS agrees with the Commission's comments. Tables 5 and 6 in this notice will show the theoretical maximum number of exposures that could occur over 16 days (13 days in the Aegean Sea plus 25 percent contingency) which is 560 instances of exposures in the absence of mitigation. NMFS bases this estimate on 25 individuals from the Anafi, two individuals from the Santorini, and eight individuals from the Kimolos-Polyaigos subpopulations.

NMFS acknowledges uncertainties in estimating take in the notice for the proposed authorization (80 FR 53623, September 4, 2015). Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular

distance of a given activity, or exposed to a particular level of sound and to use that information to predict instances of take of individuals. In practice, depending on the amount of information available to characterize daily and seasonal movement and distribution of affected marine mammals, distinguishing between the numbers of individuals harassed and the instances of harassment can be difficult to parse. Moreover, when one considers the duration of the activity, in the absence of information to predict the degree to which individual animals could be re-exposed subsequent days, the simple assumption that up to 560 instances of exposure could occur is an overestimate because it does not account for a percentage of animals remaining with caves during active operations or individuals avoiding the ensonified area all together which would lower the estimates of instances of exposure.

Use of Alternate Technologies

Comment 11: NRDC/WDC state that NMFS should require use of an alternative multi-beam echosounder to the one presently proposed and associated with a mass stranding of melon-headed whales offshore Madagascar in 2008.

Response: NMFS disagrees with the commenters' recommendation as NMFS does not have the authority to require an applicant or action proponent to choose a different multi-beam echosounder system for the proposed seismic survey. The multi-beam echosounder system currently installed on the *Langseth* is capable of mapping the seafloor in deep water and the characteristics of the system are well suited for meeting the scientists' research goals. It would not be practicable for Lamont-Doherty or the NSF to install a different multi-beam echosounder (such as the Konegsburg EM 302 or EM 710 MKII suggested by the commenters) for the proposed survey. Lamont-Doherty has used the currently-installed multi-beam echosounder on the *Langseth* (evaluated in the 2011 NSF/USGS PEIS and in the 2015 draft environmental analysis) on over 25 research seismic surveys since 2008 without association to any marine mammal strandings.

Monitoring and Reporting

Comment 12: The Commission has indicated that monitoring and reporting requirements should provide a reasonably accurate assessment of the types of taking and the numbers of animals taken by the proposed activity. They recommend that NMFS and Lamont-Doherty incorporate an accounting for animals at the surface but not detected [*i.e.,* g(0) values] and for animals present but underwater and not available for sighting [*i.e.,* f(0) values] into monitoring efforts. In light of the Commission previous comments, they recommend that NMFS consult with the funding agency (*i.e.,* the NSF) and individual applicants (*e.g.,* Lamont-Doherty and other related entities) to develop, validate, and implement a monitoring program that provides a scientifically sound, reasonably accurate assessment of the types of marine mammal takes and the actual numbers of marine mammals taken, accounting for applicable g(0) and f(0) values. They also recommend that Lamont-Doherty and other relevant entities to continue to collect appropriate sightings data in the field which NMFS can then pool to determine g(0) and f(0) values relevant to the various geophysical survey types.

Response: NMFS' implementing regulations require that applicants include monitoring that will result in ''an increased knowledge of the species, the level of taking or impacts on populations of marine mammals that are expected to be present while conducting activities.'' This increased knowledge of the level of taking could be qualitative or relative in nature, or it could be more directly quantitative. Scientists use g(0) and f(0) values in systematic marine mammal surveys to account for the undetected animals indicated above; however, these values are not simply established and the g(0) value varies across every observer based on their sighting acumen. While we want to be clear that we do not generally believe that post-activity take estimates using f(0) and g(0) are required to meet the monitoring requirement of the MMPA, in the context of the NSF and Lamont-Doherty's monitoring plan, we agree that developing and incorporating a way to better interpret the results of their monitoring (perhaps a simplified or generalized version of g(0) and f(0)) is desirable. We are continuing to examine this issue with the NSF to develop ways to improve their post-survey take estimates. We will continue to consult with the Commission and NMFS scientists prior to finalizing any future recommendations.

Description of Marine Mammals in the Area of the Specified Activity

Table 1 in this notice provides the following: All marine mammal species with possible or confirmed occurrence in the proposed activity area; information on those species' regulatory status under the MMPA and the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); abundance; occurrence and seasonality in the proposed activity area.

Lamont-Doherty presented species information in Table 2 of their application but excluded information for certain pinniped and cetacean species because they anticipated that these species would have a low likelihood of occurring in the survey area. Based on the best available information, NMFS expects that there may be a potential for certain cetacean and pinniped species to occur within the survey area (*i.e.,* potentially be taken) and have included additional information for these species in Table 1 of this notice. NMFS will carry forward analyses on the species listed in Table 1 later in this document.

TABLE 1—GENERAL INFORMATION ON MARINE MAMMALS THAT COULD POTENTIALLY OCCUR IN THE PROPOSED SURVEY AREAS WITHIN THE EASTERN MEDITERRANEAN SEA

[November through December, 2015]

Species	Stock name	Regulatory status [1 2]	Stock/ species abundance [3]	Local occurrence and range [4]	Season [5]
Gray whale (*Eschrichtius robustus*).	Eastern North Pacific	MMPA—NC ESA—EN	[6] 19,126	Visitor Extralimital	Spring. [7]
Humpback whale (*Megaptera novaeangliae*).	North Atlantic	MMPA—D ESA—EN	[8] 11,570	Visitor Extralimital	NA.
Common minke whale (*Balaenoptera acutorostrata*).	Canadian East Coast	MMPA—D ESA—NL	20,741	Visitor Extralimital	NA.
Sei whale (*Balaenoptera borealis*).	Nova Scotia	MMPA—D ESA—EN	357	Vagrant Pelagic	NA.

TABLE 1—GENERAL INFORMATION ON MARINE MAMMALS THAT COULD POTENTIALLY OCCUR IN THE PROPOSED SURVEY AREAS WITHIN THE EASTERN MEDITERRANEAN SEA—Continued

[November through December, 2015]

Species	Stock name	Regulatory status [1] [2]	Stock/ species abundance [3]	Local occurrence and range [4]	Season [5]
Fin whale (*Balaenoptera physalus*).	Mediterranean	MMPA—D ESA—EN	[9] 5,000	Present Pelagic	Summer.
Sperm whale (*Physeter macrocephalus*).	Mediterranean	MMPA—D ESA—EN	[10] 2,500	Regular Pelagic/ Slope.	Year-round.
Dwarf sperm whale (*Kogia sima*).	Western North Atlantic	MMPA—NC ESA—NL	3,785	Vagrant Shelf	NA.
Pygmy sperm whale (*K. breviceps*).	Western North Atlantic	MMPA—NC ESA—NL	3,785	Vagrant Shelf	NA.
Cuvier's beaked whale (*Ziphius cavirostris*).	Western North Atlantic	MMPA—NC ESA—NL	6,532	Regular/Present Slope.	Year-round.
Blainville's beaked whale (*Mesoplodon densirostris*).	Western North Atlantic	MMPA—NC ESA—NL	[11] 7,092	Vagrant Slope	NA.
Gervais' beaked whale (*M. europaeus*).	Western North Atlantic	MMPA—NC ESA—NL	[11] 7,092	Vagrant Extralimital	NA.
Sowerby's beaked whale (*M. bidens*).	Western North Atlantic	MMPA—NC ESA—NL	[11] 7,092	Vagrant Extralimital	NA.
Bottlenose dolphin (*Tursiops truncatus*).	Western North Atlantic	MMPA—NC ESA—NL	77,532	Regular/Present Coastal.	Year-Round.
Rough-toothed dolphin (*Steno bredanensis*).	Western North Atlantic	MMPA—NC ESA—NL	271	Visitor Pelagic	NA.
Striped dolphin (*S. coeruleoalba*).	Mediterranean	MMPA—NC ESA—NL	[12] 233,584	Regular Pelagic	Year-round.
Short-beaked common dolphin (*Delphinus delphis*).	Western North Atlantic	MMPA—NC ESA—NL	173,486	Present Coastal/Pelagic.	Spring Summer.
Risso's dolphin (*Grampus griseus*).	Western North Atlantic	MMPA—NC ESA—NL	18,250	Present Pelagic/ Slope.	NA.
False killer whale (*Pseudorca crassidens*).	Western North Atlantic	MMPA—NC ESA—NL	442	Visitor Pelagic	NA.
Long-finned pilot whale (*Globicephala melas*).	Western Mediterranean	MMPA—NC ESA—NL	[13] 240–270	Rare or Absent Pelagic.	NA.
Harbor porpoise (*Phocoena phocoena*).	Gulf of Maine/B Bay of Fundy	MMPA—NC ESA—NL	79,883	Vagrant Coastal	NA.
Hooded seal (*Cystophora cristata*).	Western North Atlantic	MMPA—NC ESA—NL	Unknown	Vagrant Pelagic/ Pack Ice.	NA.
Monk seal (*Monachus Monachus*).	Mediterranean	MMPA—D ESA—EN	[14] 341	Present Coastal	Year-round.

[1] MMPA: D = Depleted, S = Strategic, NC = Not Classified.
[2] ESA: EN = Endangered, T = Threatened, DL = Delisted, NL = Not listed.
[3] Except where noted abundance information obtained from NOAA Technical Memorandum NMFS–NE–228, U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments—2013 (Waring *et al.,* 2014) and the Draft 2014 U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments (*in review,* 2015).
[4] For most species, occurrence and range information based on *The Status and Distribution of Cetaceans in the Black Sea and Mediterranean Sea* (Reeves and Notarbartolo di Sciara, 2006). Gray whale and hooded seal presence based on sighting reports.
[5] NA = Not available. Seasonality is not available due to limited information on that species' rare or unlikely occurrence in proposed survey area.
[6] NOAA Technical Memorandum NMFS–SWFSC–532, U.S. Pacific Marine Mammal Stock Assessments—2013 (Carretta *et al.,* 2014).
[7] Scheinin *et. al.,* 2011.
[8] Stevick *et al.,* 2003.
[9] Panigada *et al.* (2012). IUCN—*Balaenoptera physalus* (Mediterranean subpopulation).
[10] Notarbartolo di Sciara, *et al.* (2012). IUCN—*Physeter macrocephalus* (Mediterranean subpopulation).
[11] Undifferentiated beaked whales abundance estimate for the Atlantic Ocean (Waring *et al.,* 2014).
[12] Forcada and Hammond (1998) for the western Mediterranean plus Gómez de Segura *et al.* (2006) for the central Spanish Mediterranean.
[13] Estimate for the western Mediterranean Sea (Reeves and Notarbartolo di Sciara, 2006).
[14] Rapid Assessment Survey of the Mediterranean monk seal *Monachus monachus* population in Anafi island, Cyclades (MOm, 2014) and UNEP. (2013) Draft Regional Strategy for the Conservation of Monk Seals in the Mediterranean (2014–2019) for Greece, Turkey, and Cyprus breeding areas.

NMFS refers the public to Lamont-Doherty's application, NSF's draft environmental analysis (see **ADDRESSES**), NOAA Technical Memorandum NMFS–NE–228, U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments—2013 (Waring *et al.,* 2014); and the Draft 2014 U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments (*in review,* 2015) available online at: *http://www.nmfs.noaa.gov/pr/sars/species.htm* for further information on the biology and local distribution of these species.

Potential Effects of the Specified Activities on Marine Mammals

NMFS provided a summary and discussion of the ways that the types of stressors associated with the specified activity (*e.g.,* seismic airgun operations, vessel movement, and entanglement) impact marine mammals (via observations or scientific studies) in the

notice for the proposed authorization (80 FR 53623, September 4, 2015).

The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative discussion of the number of marine mammals anticipated to be taken by this activity. The ''Negligible Impact Analysis'' section will include a discussion of how this specific activity will impact marine mammals. The Negligible Impact analysis considers the anticipated level of take and the effectiveness of mitigation measures to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

Operating active acoustic sources, such as airgun arrays, has the potential for adverse effects on marine mammals. The majority of anticipated impacts would be from the use of acoustic sources. The effects of sounds from airgun pulses might include one or more of the following: Tolerance, masking of natural sounds, behavioral disturbance, and temporary or permanent hearing impairment or non-auditory effects (Richardson *et al.,* 1995). However, for reasons discussed in the proposed Authorization, it is very unlikely that there would be any cases of temporary or permanent hearing impairment resulting from Lamont-Doherty's activities. As outlined in previous NMFS documents, the effects of noise on marine mammals are highly variable, often depending on species and contextual factors (based on Richardson *et al.,* 1995).

In the ''Potential Effects of the Specified Activity on Marine Mammals'' section in the notice for the proposed authorization (80 FR 53623, September 4, 2015), NMFS included a qualitative discussion of the different ways that Lamont-Doherty's seismic survey may potentially affect marine mammals. Marine mammals may behaviorally react to sound when exposed to anthropogenic noise. These behavioral reactions are often shown as: 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 noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries).

Masking is the obscuring of sounds of interest by other sounds, often at similar frequencies. Marine mammals use acoustic signals for a variety of purposes, which differ among species, but include communication between individuals, navigation, foraging, reproduction, avoiding predators, and learning about their environment (Erbe and Farmer, 2000; Tyack, 2000). Masking, or auditory interference, generally occurs when sounds in the environment are louder than, and of a similar frequency as, auditory signals an animal is trying to receive. Masking is a phenomenon that affects animals that are trying to receive acoustic information about their environment, including sounds from other members of their species, predators, prey, and sounds that allow them to orient in their environment. Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations. For the airgun sound generated from Lamont-Doherty's seismic survey, sound will consist of low frequency (under 500 Hz) pulses with extremely short durations (less than one second). Masking from airguns is more likely in low-frequency marine mammals like mysticetes. There is little concern that masking would occur near the sound source due to the brief duration of these pulses and relative silence between air gun shots (approximately 22 to 170 seconds). Masking is less likely for mid- to high-frequency cetaceans and pinnipeds.

Hearing impairment (either temporary or permanent) is also unlikely. Given the higher level of sound necessary to cause permanent threshold shift as compared with temporary threshold shift, it is considerably less likely that permanent threshold shift would occur during the seismic survey. Cetaceans generally avoid the immediate area around operating seismic vessels, as do some other marine mammals. Some pinnipeds show avoidance reactions to airguns.

The *Langseth* will operate at a relatively slow speed (typically 4.6 knots [8.5 km/h; 5.3 mph]) when conducting the survey. Protected species observers would monitor for marine mammals, which would trigger mitigation measures, including vessel avoidance where safe. Therefore, NMFS does not anticipate nor do we authorize takes of marine mammals from vessel strike.

NMFS refers the reader to Lamont-Doherty's application, the NSF's environmental analysis for additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to seismic vessels. NMFS has reviewed these data along with new information submitted during the public comment period and based our decision on the relevant information.

Anticipated Effects on Marine Mammal Habitat

NMFS included a detailed discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine mammal prey items (*e.g.,* fish and invertebrates) in the notice for the proposed authorization (80 FR 53623, September 4, 2015). While NMFS anticipates that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, the impact to habitat is temporary and reversible. Further, NMFS also considered these impacts to marine mammals in detail in the notice of proposed Authorization as behavioral modification. The main impact associated with the activity would be temporarily elevated noise levels and the associated direct effects on marine mammals.

Mitigation

In order to issue an incidental take authorization 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 adverse 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 (where relevant).

Lamont-Doherty has reviewed the following source documents and has incorporated a suite of proposed mitigation measures into their project description.

(1) Protocols used during previous Lamont-Doherty and Foundation-funded seismic research cruises as approved by us and detailed in the Foundation's 2011 PEIS and 2015 draft environmental analysis;

(2) Previous incidental harassment authorizations applications and authorizations that NMFS has approved and authorized; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman, (2007).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, Lamont-Doherty, and/or its designees have proposed to implement the following mitigation measures for marine mammals:

(1) Vessel-based visual mitigation monitoring;
(2) Proposed exclusion zones;
(3) Power down procedures;
(4) Shutdown procedures;
(5) Ramp-up procedures; and
(6) Speed and course alterations.

NMFS reviewed Lamont-Doherty's proposed mitigation measures and has proposed additional measures to effect the least practicable adverse impact on marine mammals. They are:

(1) Expanded shutdown procedures for all pinnipeds, including Mediterranean monk seals;

(2) Expanded power down procedures for concentrations of six or more whales that do not appear to be traveling (*e.g.,* feeding, socializing, *etc.*);

(3) Delayed conduct of the three tracklines nearest to Anafi Island as late as possible (*i.e.,* late November to early December) during the proposed survey;

(4) Expanded exclusion zone of 100 m (328 ft) for the mitigation airgun in shallow water depths for pinnipeds and cetaceans; and

(5) Modified transit patterns to conduct acquisition activities from the coast in a seaward direction to the maximum extent practicable.

Vessel-Based Visual Mitigation Monitoring

Lamont-Doherty would position observers aboard the seismic source vessel to watch for marine mammals near the vessel during daytime airgun operations and during any start-ups at night. Observers would also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations after an extended shutdown (*i.e.,* greater than approximately eight minutes for this proposed cruise). When feasible, the observers would conduct observations during daytime periods when the seismic system is not operating for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on the observations, the *Langseth* would power down or shutdown the airguns when marine mammals are observed within or about to enter a designated exclusion zone for cetaceans or pinnipeds.

During seismic operations, at least four protected species observers would be aboard the *Langseth.* Lamont-Doherty would appoint the observers with NMFS concurrence and they would conduct observations during ongoing daytime operations and nighttime ramp-ups of the airgun array. During the majority of seismic operations, two observers would be on duty from the observation tower to monitor marine mammals near the seismic vessel. Using two observers would increase the effectiveness of detecting animals near the source vessel. However, during mealtimes and bathroom breaks, it is sometimes difficult to have two observers on effort, but at least one observer would be on watch during bathroom breaks and mealtimes. Observers would be on duty in shifts of no longer than four hours in duration.

Two observers on the *Langseth* would also be on visual watch during all nighttime ramp-ups of the seismic airguns. A third observer would monitor the passive acoustic monitoring equipment 24 hours a day to detect vocalizing marine mammals present in the action area. In summary, a typical daytime cruise would have scheduled two observers (visual) on duty from the observation tower, and an observer (acoustic) on the passive acoustic monitoring system. Before the start of the seismic survey, Lamont-Doherty would instruct the vessel's crew to assist in detecting marine mammals and implementing mitigation requirements.

The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level would be approximately 21.5 m (70.5 ft) above sea level, and the observer would have a good view around the entire vessel. During daytime, the observers would scan the area around the vessel systematically with reticle binoculars (*e.g.,* 7 × 50 Fujinon), Big-eye binoculars (25 × 150), and with the naked eye. During darkness, night vision devices would be available (ITT F500 Series Generation 3 binocular-image intensifier or equivalent), when required. Laser range-finding binoculars (Leica LRF 1200 laser rangefinder or equivalent) would be available to assist with distance estimation. They are useful in training observers to estimate distances visually, but are generally not useful in measuring distances to animals directly. The user measures distances to animals with the reticles in the binoculars.

Lamont-Doherty would immediately power down or shutdown the airguns when observers see marine mammals within or about to enter the designated exclusion zone. The observer(s) would continue to maintain watch to determine when the animal(s) are outside the exclusion zone by visual confirmation. Airgun operations would not resume until the observer has confirmed that the animal has left the zone, or if not observed after 15 minutes for species with shorter dive durations (small odontocetes and pinnipeds) or 30 minutes for species with longer dive durations (mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, killer, and beaked whales).

Mitigation Exclusion Zones

Lamont-Doherty would use safety radii to designate exclusion zones and to estimate take for marine mammals. Table 3 shows the distances at which one would expect to receive sound levels (160–, 180–, and 190–dB,) from the airgun array and a single airgun. If the protected species visual observer detects marine mammal(s) within or about to enter the appropriate exclusion zone, the *Langseth* crew would immediately power down the airgun array, or perform a shutdown if necessary (see Shut-down Procedures).

TABLE 3—PREDICTED DISTANCES TO WHICH SOUND LEVELS GREATER THAN OR EQUAL TO 160 RE: 1 μPA COULD BE RECEIVED DURING THE PROPOSED SURVEY AREAS WITHIN THE EASTERN MEDITERRANEAN SEA

[November through December, 2015]

Source and volume (in^3)	Tow depth (m)	Water depth (m)	Predicted RMS Distances[1] (m)		
			190 dB	180 dB	160 dB
Single Bolt airgun (40 in^3)	9 or 12	<100	100[2]	100[2]	1,041
		100 to 1,000	100	100	647
		>1,000	100	100	431
36-Airgun Array (6,600 in^3)	9	<100	591	2,060	22,580
		100 to 1,000	429	1,391	8,670
		>1,000	286	927	5,780

TABLE 3—PREDICTED DISTANCES TO WHICH SOUND LEVELS GREATER THAN OR EQUAL TO 160 RE: 1 μPA COULD BE RECEIVED DURING THE PROPOSED SURVEY AREAS WITHIN THE EASTERN MEDITERRANEAN SEA—Continued

[November through December, 2015]

Source and volume (in^3)	Tow depth (m)	Water depth (m)	Predicted RMS Distances[1] (m)		
			190 dB	180 dB	160 dB
36-Airgun Array (6,600 in^3)	12	<100	710	2,480	27,130
		100 to 1,000	522	1,674	10,362
		>1,000	348	1,116	6,908

[1] Predicted distances based on information presented in Lamont-Doherty's application.
[2] NMFS required NSF to expand the exclusion zone for the mitigation airgun to 100 m (328 ft) in shallow water.

The 180– or 190–dB level shutdown criteria are applicable to cetaceans as specified by NMFS (2000). Lamont-Doherty used these levels to establish the exclusion zones as presented in their application.

Power Down Procedures

A power down involves decreasing the number of airguns in use such that the radius of the 180–dB or 190–dB exclusion zone is smaller to the extent that marine mammals are no longer within or about to enter the exclusion zone. A power down of the airgun array can also occur when the vessel is moving from one seismic line to another. During a power down for mitigation, the *Langseth* would operate one airgun (40 in^3). The continued operation of one airgun would alert marine mammals to the presence of the seismic vessel in the area. A shutdown occurs when the *Langseth* suspends all airgun activity.

If the observer detects a marine mammal outside the exclusion zone and the animal is likely to enter the zone, the crew would power down the airguns to reduce the size of the 180–dB or 190–dB exclusion zone before the animal enters that zone. Likewise, if a mammal is already within the zone after detection, the crew would power-down the airguns immediately. During a power down of the airgun array, the crew would operate a single 40-in^3 airgun which has a smaller exclusion zone. If the observer detects a marine mammal within or near the smaller exclusion zone around the airgun (Table 3), the crew would shut down the single airgun (see next section).

Resuming Airgun Operations after a Power Down: Following a power-down, the *Langseth* crew would not resume full airgun activity until the marine mammal has cleared the 180–dB or 190–dB exclusion zone. The observers would consider the animal to have cleared the exclusion zone if:

- The observer has visually observed the animal leave the exclusion zone; or
- An observer has not sighted the animal within the exclusion zone for 15 minutes for species with shorter dive durations (*i.e.,* small odontocetes or pinnipeds), or 30 minutes for species with longer dive durations (*i.e.,* mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales); or

The *Langseth* crew would resume operating the airguns at full power after 15 minutes of sighting any species with short dive durations (*i.e.,* small odontocetes or pinnipeds). Likewise, the crew would resume airgun operations at full power after 30 minutes of sighting any species with longer dive durations (*i.e.,* mysticetes and large odontocetes, including sperm, pygmy sperm, and dwarf sperm whales).

NMFS estimates that the *Langseth* would transit outside the original 180–dB or 190–dB exclusion zone after an 8-minute wait period. Lamont-Doherty bases this period on the average speed of the *Langseth* while operating the airguns (8.5 km/h; 5.3 mph). Because the vessel has transited away from the vicinity of the original sighting during the 8-minute period, implementing ramp-up procedures for the full array after an extended power down (*i.e.,* transiting for an additional 35 minutes from the location of initial sighting) would not meaningfully increase the effectiveness of observing marine mammals approaching or entering the exclusion zone for the full source level and would not further minimize the potential for take. The *Langseth's* observers are continually monitoring the exclusion zone for the full source level while the mitigation airgun is firing. On average, observers can observe to the horizon (10 km; 6.2 mi) from the height of the *Langseth's* observation deck and should be able to say with a reasonable degree of confidence whether a marine mammal would be encountered within this distance before resuming airgun operations at full power.

Shutdown Procedures

The *Langseth* crew would shut down the operating airgun(s) if they see a marine mammal within or approaching the exclusion zone for the single airgun. The crew would implement a shutdown:

(1) If an animal enters the exclusion zone of the single airgun after the crew has initiated a power down; or

(2) If an observer sees the animal is initially within the exclusion zone of the single airgun when more than one airgun (typically the full airgun array) is operating.

Resuming Airgun Operations after a Shutdown: Following a shutdown in excess of eight minutes, the *Langseth* crew would initiate a ramp-up with the smallest airgun in the array (40-in^3). The crew would turn on additional airguns in a sequence such that the source level of the array would increase in steps not exceeding 6 dB per five-minute period over a total duration of approximately 30 minutes. During ramp-up, the observers would monitor the exclusion zone, and if he/she sees a marine mammal, the *Langseth* crew would implement a power down or shutdown as though the full airgun array were operational.

During periods of active seismic operations, there are occasions when the *Langseth* crew would need to temporarily shut down the airguns due to equipment failure or for maintenance. In this case, if the airguns are inactive longer than eight minutes, the crew would follow ramp-up procedures for a shutdown described earlier and the observers would monitor the full exclusion zone and would implement a power down or shutdown if necessary.

If the full exclusion zone is not visible to the observer for at least 30 minutes prior to the start of operations in either daylight or nighttime, the *Langseth* crew would not commence ramp-up unless at least one airgun (40-in^3 or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the

vessel's crew would not ramp up the airgun array from a complete shutdown at night or in thick fog, because the outer part of the zone for that array would not be visible during those conditions.

If one airgun has operated during a power down period, ramp-up to full power would be permissible at night or in poor visibility, on the assumption that marine mammals would be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away. The vessel's crew would not initiate a ramp-up of the airguns if an observer sees the marine mammal within or near the applicable exclusion zones during the day or close to the vessel at night.

Ramp-up Procedures

Ramp-up of an airgun array provides a gradual increase in sound levels, and involves a step-wise increase in the number and total volume of airguns firing until the full volume of the airgun array is achieved. The purpose of a ramp-up is to ''warn'' marine mammals in the vicinity of the airguns, and to provide the time for them to leave the area and thus avoid any potential injury or impairment of their hearing abilities. Lamont-Doherty would follow a ramp-up procedure when the airgun array begins operating after an 8 minute period without airgun operations or when shut down has exceeded that period. Lamont-Doherty has used similar waiting periods (approximately eight to 10 minutes) during previous seismic surveys.

Ramp-up would begin with the smallest airgun in the array (40 in^3). The crew would add airguns in a sequence such that the source level of the array would increase in steps not exceeding six dB per five minute period over a total duration of approximately 30 to 35 minutes. During ramp-up, the observers would monitor the exclusion zone, and if marine mammals are sighted, Lamont-Doherty would implement a power-down or shut-down as though the full airgun array were operational.

If the complete exclusion zone has not been visible for at least 30 minutes prior to the start of operations in either daylight or nighttime, Lamont-Doherty would not commence the ramp-up unless at least one airgun (40 in^3 or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the crew would not ramp up the airgun array from a complete shut-down at night or in thick fog, because the outer part of the exclusion zone for that array would not be visible during those conditions. If one airgun has operated during a power-down period, ramp-up to full power would be permissible at night or in poor visibility, on the assumption that marine mammals would be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away. Lamont-Doherty would not initiate a ramp-up of the airguns if an observer sights a marine mammal within or near the applicable exclusion zones.

Special Procedures for Situations or Species of Concern

Considering the highly endangered status of Mediterranean monk seals, the *Langseth* crew would shut down the airgun(s) immediately in the unlikely event that observers detect any pinniped species within any visible distance of the vessel. The *Langseth* would only begin ramp-up if observers have not seen the Mediterranean monk seal for 30 minutes.

To further reduce impacts to Mediterranean monk seals during the peak of the pupping season (September through November), NMFS is requiring Lamont-Doherty to conduct the three proposed tracklines nearest to Anafi Island as late as possible (*i.e.,* late November to early December) during the proposed survey.

Last, the *Langseth* would avoid exposing concentrations of large whales to sounds greater than 160 dB and would power down the array, if necessary. For purposes of this proposed survey, a concentration or group of whales would consist of six or more individuals visually sighted that do not appear to be traveling (*e.g.,* feeding, socializing, etc.).

Speed and Course Alterations

If during seismic data collection, Lamont-Doherty detects marine mammals outside the exclusion zone and, based on the animal's position and direction of travel, is likely to enter the exclusion zone, the *Langseth* would change speed and/or direction if this does not compromise operational safety. Due to the limited maneuverability of the primary survey vessel, altering speed, and/or course can result in an extended period of time to realign the *Langseth* to the transect line. However, if the animal(s) appear likely to enter the exclusion zone, the *Langseth* would undertake further mitigation actions, including a power down or shut down of the airguns.

To the maximum extent practicable, the *Langseth* would conduct the seismic survey (especially when near land) from the coast (inshore) and proceed towards the sea (offshore) in order to avoid trapping marine mammals in shallow water.

Mitigation Conclusions

NMFS has carefully evaluated Lamont-Doherty's proposed mitigation measures in the context of ensuring that we prescribe the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed here:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to airgun operations that we expect to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to airgun operations that we expect to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to airgun operations that we expect to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on the evaluation of Lamont-Doherty's proposed measures, as well as other measures proposed by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring

In order to issue an Incidental Take Authorization 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 we expect to be present in the proposed action area.

Lamont-Doherty submitted a marine mammal monitoring plan in section XIII of the Authorization application. NMFS, NSF, or Lamont-Doherty may modify or supplement the plan based on comments or new information received from the public during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and during other times and locations, in order to generate more data to contribute to the analyses mentioned later;

2. An increase in our understanding of how many marine mammals would be affected by seismic airguns and other active acoustic sources and the likelihood of associating those exposures with specific adverse effects, such as behavioral harassment, temporary or permanent threshold shift;

3. An increase in our understanding of how marine mammals respond to stimuli that we expect to result in take and how those anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

a. Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (*i.e.,* to be able to accurately predict received level, distance from source, and other pertinent information);

b. Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (*i.e.,* to be able to accurately predict received level, distance from source, and other pertinent information);

c. Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

4. An increased knowledge of the affected species; and

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Monitoring Measures

Lamont-Doherty proposes to sponsor marine mammal monitoring during the present project to supplement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the Authorization. Lamont-Doherty understands that NMFS would review the monitoring plan and may require refinements to the plan. Lamont-Doherty planned the monitoring work as a self-contained project independent of any other related monitoring projects that may occur in the same regions at the same time. Further, Lamont-Doherty is prepared to discuss coordination of its monitoring program with any other related work that might be conducted by other groups working insofar as it is practical for Lamont-Doherty.

Vessel-Based Passive Acoustic Monitoring

Passive acoustic monitoring would complement the visual mitigation monitoring program, when practicable. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Passive acoustical monitoring can improve detection, identification, and localization of cetaceans when used in conjunction with visual observations. The passive acoustic monitoring would serve to alert visual observers (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals call, but it can be effective either by day or by night, and does not depend on good visibility. The acoustic observer would monitor the system in real time so that he/she can advise the visual observers if they acoustically detect cetaceans.

The passive acoustic monitoring system consists of hardware (*i.e.,* hydrophones) and software. The ''wet end'' of the system consists of a towed hydrophone array connected to the vessel by a tow cable. The tow cable is 250 m (820.2 ft) long and the hydrophones are fitted in the last 10 m (32.8 ft) of cable. A depth gauge, attached to the free end of the cable, typically towed at depths less than 20 m (65.6 ft). The *Langseth* crew would deploy the array from a winch located on the back deck. A deck cable would connect the tow cable to the electronics unit in the main computer lab where the acoustic station, signal conditioning, and processing system would be located. The Pamguard software amplifies, digitizes, and then processes the acoustic signals received by the hydrophones. The system can detect marine mammal vocalizations at frequencies up to 250 kHz.

One acoustic observer, an expert bioacoustician with primary responsibility for the passive acoustic monitoring system would be aboard the *Langseth* in addition to the four visual observers. The acoustic observer would monitor the towed hydrophones 24 hours per day during airgun operations and during most periods when the *Langseth* is underway while the airguns are not operating. However, passive acoustic monitoring may not be possible if damage occurs to both the primary and back-up hydrophone arrays during operations. The primary passive acoustic monitoring streamer on the *Langseth* is a digital hydrophone streamer. Should the digital streamer fail, back-up systems should include an analog spare streamer and a hull-mounted hydrophone.

One acoustic observer would monitor the acoustic detection system by listening to the signals from two channels via headphones and/or speakers and watching the real-time spectrographic display for frequency ranges produced by cetaceans. The observer monitoring the acoustical data would be on shift for one to six hours at a time. The other observers would rotate as an acoustic observer, although the expert acoustician would be on passive acoustic monitoring duty more frequently.

When the acoustic observer detects a vocalization while visual observations are in progress, the acoustic observer on duty would contact the visual observer immediately, to alert him/her to the presence of cetaceans (if they have not

already been seen), so that the vessel's crew can initiate a power down or shutdown, if required. The observer would enter the information regarding the call into a database. Data entry would include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (*e.g.,* unidentified dolphin, sperm whale), types and nature of sounds heard (*e.g.,* clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information. Acousticians record the acoustic detection for further analysis.

Observer Data and Documentation

Observers would record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. They would use the data to help better understand the impacts of the activity on marine mammals and to estimate numbers of animals potentially 'taken' by harassment (as defined in the MMPA). They will also provide information needed to order a power down or shut down of the airguns when a marine mammal is within or near the exclusion zone.

When an observer makes a sighting, they will record the following information:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (*e.g.,* none, avoidance, approach, paralleling, etc.), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare.

The observer will record the data listed under (2) at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

Observers will record all observations and power downs or shutdowns in a standardized format and will enter data into an electronic database. The observers will verify the accuracy of the data entry by computerized data validity checks during data entry and by subsequent manual checking of the database. These procedures will allow the preparation of initial summaries of data during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving.

Results from the vessel-based observations will provide:

1. The basis for real-time mitigation (airgun power down or shutdown).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which Lamont-Doherty must report to the Office of Protected Resources.

3. Data on the occurrence, distribution, and activities of marine mammals and turtles in the area where Lamont-Doherty would conduct the seismic study.

4. Information to compare the distance and distribution of marine mammals and turtles relative to the source vessel at times with and without seismic activity.

5. Data on the behavior and movement patterns of marine mammals detected during non-active and active seismic operations.

Reporting

Lamont-Doherty would submit a report to us and to NSF within 90 days after the end of the cruise. The report would describe the operations conducted and sightings of marine mammals near the operations. The report would provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report would summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report would also include estimates of the number and nature of exposures that occurred above the harassment threshold based on the observations.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner not permitted by the authorization (if issued), such as serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), Lamont-Doherty shall immediately cease the specified activities and immediately report the take to the Chief Permits and Conservation Division, Office of Protected Resources, NMFS. Lamont-Doherty must also contact the ARION Cetacean Rescue and Rehabilitation Centre, Greece at +030–6945–531850.

The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and 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).

Lamont-Doherty shall not resume its activities until we are able to review the circumstances of the prohibited take. NMFS shall work with Lamont-Doherty to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Lamont-Doherty may not resume their activities until notified by us via letter, email, or telephone.

In the event that Lamont-Doherty discovers an injured or dead marine mammal, and the lead visual observer determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as we describe in the next paragraph), Lamont-Doherty will immediately report the incident to the Chief Permits and Conservation Division, Office of Protected Resources, NMFS. Lamont-Doherty must also contact the ARION Cetacean Rescue and Rehabilitation Centre, Greece at +030–6945–531850.

The report must include the same information identified in the paragraph above this section. Activities may continue while NMFS reviews the circumstances of the incident. NMFS would work with Lamont-Doherty to determine whether modifications in the activities are appropriate.

In the event that Lamont-Doherty discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Lamont-Doherty would report the incident to the Chief Permits and Conservation Division, Office of Protected Resources, NMFS, within 24 hours of the discovery. Lamont-Doherty would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS. Lamont-Doherty must also contact the ARION Cetacean Rescue and

Rehabilitation Centre, Greece at +030–6945–531850.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) 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].

Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the airgun array may have the potential to result in the behavioral disturbance of some marine mammals and may have an even smaller potential to result in permanent threshold shift (non-lethal injury) of some marine mammals. NMFS expects that the proposed mitigation and monitoring measures would minimize the possibility of injurious or lethal takes. However, NMFS cannot discount the possibility (albeit small) that exposure to energy from the proposed survey could result in non-lethal injury (Level A harassment). Thus, NMFS proposes to authorize take by Level B harassment and Level A harassment resulting from the operation of the sound sources for the proposed seismic survey based upon the current acoustic exposure criteria shown in Table 4.

TABLE 4—NMFS' CURRENT ACOUSTIC EXPOSURE CRITERIA

Criterion	Criterion Definition	Threshold
Level A Harassment (Injury)	Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 microPa-m (cetaceans)/190 dB re 1 microPa-m (pinnipeds) root mean square (rms).
Level B Harassment	Behavioral Disruption (for impulse noises)	160 dB re 1 microPa-m (rms).

NMFS' practice is to apply the 160 dB re: 1 μPa received level threshold for underwater impulse sound levels to predict whether behavioral disturbance that rises to the level of Level B harassment is likely to occur. NMFS' practice is to apply the 180 dB re: 1 μPa received level threshold for underwater impulse sound levels to predict whether permanent threshold shift (auditory injury), which is considered Level A harassment, is likely to occur.

Acknowledging Uncertainties in Estimating Take

Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound and use that information to predict how many animals are taken. In practice, depending on the amount of information available to characterize daily and seasonal movement and distribution of affected marine mammals, distinguishing between the numbers of individuals harassed and the instances of harassment can be difficult to parse. Moreover, when one considers the duration of the activity, in the absence of information to predict the degree to which individual animals are likely exposed repeatedly on subsequent days, the simple assumption is that entirely new animals are exposed in every day, which results in a take estimate that in some circumstances overestimates the number of individuals harassed.

The following sections describe NMFS' methods to estimate take by incidental harassment. We base these estimates on the number of marine mammals that could be harassed by seismic operations with the airgun array during approximately 2,140 km (1,330 mi) of transect lines in the eastern Mediterranean Sea.

Modeled Number of Instances of Exposures in Territorial Waters and High Seas: Lamont-Doherty would conduct the proposed seismic survey within the EEZ and territorial waters of Greece. Greece's territorial seas to extend out to 6 nmi (7 mi; 11 km). The proposed survey would take place partially within Greece's territorial seas (less than 6 nmi [11 km; 7 mi] from the shore) and partially in the high seas. However, NMFS has no authority to authorize the incidental take of marine mammals in the territorial seas of foreign nations, because the MMPA does not apply in those waters. However, NMFS still needs to calculate the level of incidental take in the entire activity area (territorial seas and high seas) as part of the analysis supporting our preliminary determination under the MMPA that the activity will have a negligible impact on the affected species (Table 5). Therefore, NMFS presents estimates of the anticipated numbers of instances that marine mammals would be exposed to sound levels greater than or equal to 160, 180, and 190 dB re: 1 μPa during the proposed seismic survey, both for within the entire action area (*i.e.,* within Greece's territorial seas [less than 6 nmi] and outside of Greece's territorial seas [greater than 6 nmi]—Table 5. Table 6 represents the numbers of instances of take that NMFS proposes to authorize for this survey within the high seas portion of the survey (*i.e.,* the area beyond Greek territorial seas which is outside 6 nmi; 7 mi; 11 km).

NMFS' Take Estimate Method for Species with Density Information: For the proposed Authorization, NMFS reviewed Lamont-Doherty's take estimates presented in Table 3 of their application and propose a more appropriate methodology to estimate take. Lamont-Doherty's approach is to multiply the ensonified area by marine mammal densities (if available) to estimate take. This ''snapshot approach'' (*i.e.,* area times density) proposed by Lamont-Doherty, assumes a uniform distribution of marine mammals present within the proposed survey area and does not account for the survey occurring over a 16-day period and the overlap of areas across days in that 16-day period.

NMFS has developed an alternate approach that appropriately includes a time component to calculate the take estimates for the proposed survey. In order to estimate the potential number of instances that marine mammals could be exposed to airgun sounds above the 160-dB Level B harassment threshold and the 180–dB Level A harassment thresholds, NMFS used the following approach for species with density estimates:

(1) Calculate the total area that the *Langseth* would ensonify above the 160-dB Level B harassment threshold and above the 180-dB Level A harassment threshold for cetaceans within a 24-hour period. This calculation includes a daily ensonified area of approximately 1,211

square kilometers (km^2) [468 square miles (mi^2)] based on the *Langseth* traveling approximately 200 km [124 mi] in one day). Generally, the *Langseth* travels approximately 137 km in one day while conducting a seismic survey, thus, NMFS' estimate of a daily ensonified area based on 200 km is an estimation of the theoretical maximum that the *Langseth* could travel within 24 hours.

(2) Multiply the daily ensonified area above the 160-dB Level B harassment threshold by the species' density to derive the predicted number of instances of exposures to received levels greater than or equal to 160-dB re: 1 μPa on a given day;

(3) Multiply that product (*i.e.,* the expected number of instances of exposures within a day) by the number of survey days that includes a 25 percent contingency (*i.e.,* a total of 20 days) to derive the predicted number of instances of exposures over the duration of the survey;

(4) Multiply the daily ensonified area by each species-specific density to derive the predicted number of instances of exposures to received levels greater than or equal to 180-dB re: 1 μPa for cetaceans on a given day; and (*i.e.,* Level A takes).

(5) Multiply that product by the number of survey days that includes a 25 percent contingency (*i.e.,* a total of 20 days). Subtract that product from the predicted number of instances of exposures to received levels greater than or equal to 160-dB re: 1 μPa on a given day to derive the number of instances of exposures estimated to occur between 160 and 180-dB threshold (*i.e.,* Level B takes).

In many cases, this estimate of instances of exposures is likely an overestimate of the number of individuals that are taken, because it assumes 100 percent turnover in the area every day, (*i.e.,* that each new day results in takes of entirely new individuals with no repeat takes of the same individuals over the 20-day period). However, it is difficult to quantify to what degree NMFS has overestimated the number of individuals potentially affected. Except as described later for a few specific species, NMFS uses this number of instances as the estimate of individuals (and authorized take) even though NMFS is aware that the number is high. This method is a way to help understand the instances of exposure above the Level B and Level A thresholds, however, NMFS notes that method would overestimate the number of individual marine mammals exposed above the 160- or 180-dB threshold.

Take Estimates for Species with No Density Information: Density information for many species of marine mammals in the eastern Mediterranean Sea is data poor or non-existent. When density estimates were not available, NMFS used data based on dedicated survey sighting information from the Atlantic Marine Assessment Program for Protected Species (AMAPPS) surveys in 2010, 2011, and 2013 (AMAPPS, 2010, 2011, 2013) and Boisseau *et al.* (2010) to estimate take for certain species with no density information. NMFS assumed that Lamont-Doherty could potentially encounter one group of each species during the seismic survey. NMFS believes it is reasonable to use the average (mean) group size (weighted by effort and rounded up) from the AMMAPS surveys to estimate the take from these potential encounters. Those species include the following: Dwarf sperm and pygmy sperm whale (2 each), Gervais', Sowerby's, and Blainville's beaked whales (3 each).

For humpback whale and minke whale, the applicant requested 116 and 1,052 Level B takes for those species, respectively to account for uncertainty in the likelihood of encountering those species during the proposed survey. For these two species which are considered as visitor and vagrant respectively, NMFS believes that it is reasonable to use the average (mean) group size (weighted by effort and rounded up) from the AMMAPS surveys for humpback whale (3) and minke whale (2) and multiply those estimates by 20 days to derive a more reasonable estimate of take. Thus, NMFS proposes a take estimate of 60 humpback whales and 40 minke whales to account for the unlikely possibility of an eruptive occurrence of these species within the proposed action area.

NMFS based the take estimates for rough-toothed dolphins (8), false killer whales (3), long-finned pilot whales (33) and harbor porpoise (1) on mean group size reported from encounter rates observed during visual and acoustic surveys in the Mediterranean Sea, 2003–2007 (Boisseau *et al.,* 2010).

For rarely sighted species such as the gray and Sei whale, NMFS used the mean group size reported in (Boisseau *et al.,* 2010) for Sei whales (1) as a proxy for a take estimate for gray whales (1).

NMFS based the take estimates for hooded seals (1) on stranding and sighting records for the western Mediterranean Sea (Bellido *et al.,* 2008). Based on the best available information, there are no reports of strandings or sightings of hooded seals east of the Gata Cape, Almeria, Spain. Researchers suggest the Alboran Sea is the present limit of the sporadic incursion of this species in the Mediterranean Sea (Bellido *et al.,* 2008).

Take Estimates for Mediterranean Monk Seals: Density information for Mediterranean monk seals in the eastern Mediterranean Sea is also data poor or non-existent. NMFS used data based on sighting information from the Rapid Assessment Survey of the Mediterranean monk seal *Monachus monachus* population in Anafi Island, Cyclades Greece (MOm, 2014). Based on the spatial extent of the survey (three tracklines are approximately 4 km west of Anafi Island). NMFS estimates that the proposed survey could affect approximately 100 percent (25 out of approximately 25 individuals) of the monk seal subpopulation from Anafi Island (Mom, 2014) location within the proposed survey area.

Because adult female Mediterranean monk seals can travel up to 70 km (43 mi) (Adamantopoulou *et al.,* 2011) and based on the spatial extent of the survey in relation to the islands, NMFS conservatively estimates that the proposed survey could affect up to 8 adult females of the monk seal subpopulation from the Kimolos—Polyaigos Island complex in the Cyclades Islands (Politikos *et al.,* 2009) located approximately 60 km (37 mi) northwest of the outer perimeter of the 160-dB ensonified area. NMFS bases the estimate of 8 females on the estimated mean annual pup production count (7.9) for the island complex (UNEP, 2013).

To date, data is unavailable from any systematic survey on the presence of monk seal caves on Santorini Island (Pers. Comm. MOm, 2015). However, based on recent stranding information for one pup on Santorini Island, NMFS estimates that up to two individuals could be present on Santorini Island.

TABLE 5—DENSITIES, GROUP SIZE, AND ESTIMATES OF THE POSSIBLE NUMBER OF INSTANCES OF EXPOSURES OF MARINE MAMMALS EXPOSED TO SOUND LEVELS GREATER THAN OR EQUAL TO 160 DB RE: 1 μPA OVER 20 DAYS DURING THE PROPOSED SEISMIC SURVEY FOR THE ENTIRE ACTION AREA (WITHIN TERRITORIAL WATERS AND THE HIGH SEAS) IN THE EASTERN MEDITERRANEAN SEA (NOVEMBER THROUGH DECEMBER, 2015)

Species	Density estimate[1]	Modeled number of instances of exposures to sound levels ≥ 160, 180, and 190 dB[2]	Total number of instances of exposures[3]	Percent of regional population[4]	Population trend[5]
Gray whale	NA	1, 0, -	1	0.01	Unknown.
Humpback whale	NA	60, 0, -	60	0.52	Increasing.
Minke whale	NA	40, 0, -	40	0.19	Unknown.
Sei whale	NA	1, 0, -	1	0.28	Unknown.
Fin whale	0.00168[6]	100, 20, -	120	2.40	Unknown.
Sperm whale	0.00052[7]	40, 0, -	40	1.60	Unknown.
Dwarf sperm whale	NA	2, 0, -	2	0.05	Unknown.
Pygmy sperm whale	NA	2, 0, -	2	0.05	Unknown.
Cuvier's beaked whale	0.00156[8]	100, 20, -	120	1.84	Unknown.
Blainville's beaked whale	NA	27, 0, -	3	0.04	Unknown.
Gervais' beaked whale	NA	27, 0, -	3	0.04	Unknown.
Sowerby's beaked whale	NA	27, 0, -	3	0.04	Unknown.
Bottlenose dolphin	0.043[9]	2,940, 340, -	3,280	4.23	Unknown.
Rough-toothed dolphin	NA	8, 0, -	8	2.95	Unknown.
Striped dolphin	0.22[10]	15,060, 1,700, -	16,760	7.18	Unknown.
Short-beaked common dolphin	0.03[11]	2,060, 240, -	2,300	11.84	Decreasing.
Risso's dolphin	0.015[12]	1,020, 120, -	1,140	6.25	Unknown.
False killer whale	NA	3, 0, -	3	0.68	Unknown.
Long-finned pilot whale	NA	33, 0 -	33	13.75	Unknown.
Harbor porpoise	NA	1, 0, -	1	0.001	Unknown.
Hooded seal	NA	1, -, 0	1	Unknown	Unknown.
Monk seal	NA	560, -, 0	35	10.26	In Review.

[1] Densities (where available) are expressed as number of individuals per km^2. NA = Not available.
[2] See preceding text for information on NMFS' take estimate calculations. NA = Not applicable.
[3] Modeled instances of exposures includes adjustments for species with no density information.
[4] Table 2 in this notice lists the stock species abundance estimates used in calculating the percentage of species/stock.
[5] Population trend information from Waring *et al.,* 2014. Population trend information for Mediterranean monk seals from MOm (Pers. Comm., 2015). Unknown = Insufficient data to determine population trend.
[6] Panigada *et al.,* 2011.
[7] Laran *et al.,* 2010.
[8] Density based on density for sperm whales (Laran *et al.,* 2010) and adjusted for proportional difference in sighting rates and mean group sizes between sperm and Cuvier's beaked whales in the Mediterranean Sea (Boisseau *et al.,* 2010).
[9] Fortuna *et al.,* 2011.
[10] Panigada *et al.,* 2011.
[11] Density based Laran *et al.* (2010) striped dolphin winter density adjusted for the proportional difference in striped dolphin to common dolphin sightings as indicated by surveys of the Ionian Sea (Notarbartolo di Sciara *et al.* 1993).
[12] Gomez de Segura *et al.,* 2006. Fortuna *et al.,* 2011 reported 0.007 in the Adriatic, but noted that the estimate was not suitable for management purposes.

TABLE 6—DENSITIES, MEAN GROUP SIZE, AND ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS AND POPULATION PERCENTAGES EXPOSED TO SOUND LEVELS GREATER THAN OR EQUAL TO 160 DB RE: 1 μPA OVER 20 DAYS DURING THE PROPOSED SEISMIC SURVEY OUTSIDE OF TERRITORIAL WATERS AND THE HIGH SEAS IN THE EASTERN MEDITERRANEAN SEA (NOVEMBER THROUGH DECEMBER, 2015)

Species	Density estimate[1]	Modeled number of instances of exposures to sound levels ≥ 160, 180, and 190 dB[2] (Outside territorial sea)	Authorized level A take[3]	Authorized level B take[3]	Percent of regional population[4]	Population trend[5]
Gray whale	NA	1, 0, -	0	1	0.01	Unknown.
Humpback whale	NA	60, 0, -	0	60	0.52	Increasing.
Minke whale	NA	40, 0, -	0	40	0.193	Unknown.
Sei whale	NA	1, 0, -	0	1	0.28	Unknown.
Fin whale	0.00168	40, 0, -	0	40	0.80	Unknown.
Sperm whale	0.00052	20, 0, -	0	20	0.80	Unknown.
Dwarf sperm whale	NA	2, 0, -	0	2	0.05	Unknown.
Pygmy sperm whale	NA	2, 0, -	0	2	0.05	Unknown.
Cuvier's beaked whale	0.00156	40, 0, -	0	40	0.61	Unknown.
Blainville's beaked whale	NA	27, 0, -	0	3	0.04	Unknown.
Gervais' beaked whale	NA	27, 0, -	0	3	0.04	Unknown.
Sowerby's beaked whale	NA	27, 0, -	0	3	0.04	Unknown.
Bottlenose dolphin	0.043	900, 160, -	160	900	1.37	Unknown.

TABLE 6—DENSITIES, MEAN GROUP SIZE, AND ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS AND POPULATION PERCENTAGES EXPOSED TO SOUND LEVELS GREATER THAN OR EQUAL TO 160 dB RE: 1 μPa OVER 20 DAYS DURING THE PROPOSED SEISMIC SURVEY OUTSIDE OF TERRITORIAL WATERS AND THE HIGH SEAS IN THE EASTERN MEDITERRANEAN SEA (NOVEMBER THROUGH DECEMBER, 2015)—Continued

Species	Density estimate [1]	Modeled number of instances of exposures to sound levels ≥ 160, 180, and 190 dB [2] (Outside territorial sea)	Authorized level A take [3]	Authorized level B take [3]	Percent of regional population [4]	Population trend [5]
Rough-toothed dolphin	NA	8, 0, -	0	8	2.95	Unknown.
Striped dolphin	0.22	4,560, 780, -	780	4,560	2.29	Unknown.
Short-beaked common dolphin	0.03	620, 100, -	100	620	3.71	Decreasing.
Risso's dolphin	0.015	320, 60, -	60	320	2.08	Unknown.
False killer whale	NA	3, 0, -	0	3	0.68	Unknown.
Long-finned pilot whale	NA	33, 0, -	0	33	13.75	Unknown.
Harbor porpoise	NA	1, 0, -	0	1	0.001	Unknown.
Hooded seal	NA	1, -, 0	0	1	Unknown	Unknown.
Monk seal	NA	560, -, 0	0	35	10.26	In Review.

[1] Densities (where available) are expressed as number of individuals per km^2. NA = Not available.
[2] See preceding text for information on NMFS' take estimate calculations. NA = Not applicable.
[3] Modeled instances of exposures includes adjustments for species with no density information. The Level A estimates are overestimates of predicted impacts to marine mammals as the estimates do not take into consideration the required mitigation measures for shutdowns or power downs if a marine mammal is likely to enter the 180 dB exclusion zone while the airguns are active.
[4] Table 2 in this notice lists the stock species abundance estimates used in calculating the percentage of species/stock or regional population.
[5] Population trend information from Waring *et al.,* 2014. Population trend information for Mediterranean monk seals from MOm (Pers. Comm., 2015). Unknown = Insufficient data to determine population trend.

Lamont-Doherty did not estimate any additional take from sound sources other than airguns. NMFS does not expect the sound levels produced by the echosounder or sub-bottom profiler to exceed the sound levels produced by the airguns. Lamont-Doherty will not operate the multibeam echosounder and sub-bottom profiler during transits to and from the survey area, (*i.e.,* when the airguns are not operating), and, therefore, NMFS does not anticipate additional takes from these sources or acoustic release signals from the ocean bottom seismometers in this particular case.

NMFS considers the probability for entanglement of marine mammals as low because of the vessel speed and the monitoring efforts onboard the survey vessel. Therefore, NMFS does not believe it is necessary to authorize additional takes for entanglement at this time.

The *Langseth* will operate at a relatively slow speed (typically 4.6 knots [8.5 km/h; 5.3 mph]) when conducting the survey. Protected species observers would monitor for marine mammals, which would trigger mitigation measures, including vessel avoidance where safe. Therefore, NMFS does not anticipate nor do we authorize takes of marine mammals from vessel strike.

There is no evidence that planned activities could result in serious injury or mortality within the specified geographic area for the requested proposed Authorization. The required mitigation and monitoring measures would minimize any potential risk for serious injury or mortality.

Analysis and Determinations

Negligible Impact

Negligible impact is ''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). The lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population level effects) forms the basis of a negligible impact finding. Thus, 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 behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, *etc.*), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

In making a negligible impact determination, NMFS considers:

- The number of anticipated injuries, serious injuries, or mortalities;
- The number, nature, and intensity, and duration of harassment; and
- The context in which the takes occur (*e.g.,* impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);
- The status of stock or species of marine mammals (*i.e.,* depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);
- Impacts on habitat affecting rates of recruitment/survival; and
- The effectiveness of monitoring and mitigation measures to reduce the number or severity of incidental take.

To avoid repetition, our analysis applies to all the species listed in Table 6, given that NMFS expects the anticipated effects of the seismic airguns to be similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat (*e.g.* Mediterranean monk seals), NMFS has identified species-specific factors to inform the analysis.

Given the required mitigation and related monitoring, NMFS does not anticipate that serious injury or mortality would occur as a result of Lamont-Doherty's proposed seismic survey in the eastern Mediterranean

Sea. Thus the Authorization does not authorize any mortality.

NMFS' predicted estimates for Level A harassment take for bottlenose, striped, short-beaked common, and Risso's dolphins are overestimates of likely injury because NMFS has not quantitatively adjusted the estimate to account for either avoidance or effective mitigation. NMFS expects that the required visual and acoustic mitigation measures would minimize Level A take in those instances. Also, NMFS expects that some individuals would avoid the source at levels expected to result in injury. NMFS expects that Level A harassment is unlikely but includes the modeled information in this notice. Taking into account that interactions at the modeled level of take for Level A harassment are unlikely or minimal due to Lamont-Doherty implementing required mitigation and monitoring measures, the likely avoidance of animals to the sound source, and Lamont-Doherty's previous history of successfully implementing required mitigation measures, the quantified potential injuries in Table 6, if incurred, would be in the form of some lesser degree of permanent threshold shift and not total deafness or mortality.

Given that the Hellenic Republic Ministry of Environment, Energy and Climate Change conducted a larger scale seismic survey in the eastern Mediterranean Sea from mid-November 2012 to end of January 2013, the addition of the increased sound due to the *Langseth's* operations associated with the proposed seismic survey during a shorter time-frame (approximately 20 days from mid-November to mid-December) is not outside the present experience of marine mammals in the eastern Mediterranean Sea, although levels may increase locally. NMFS does not expect that Lamont-Doherty's 20-day proposed survey would have effects that could cause significant or long-term consequences for individual marine mammals or their populations.

Of the marine mammal species under our jurisdiction that are known to occur or likely to occur in the study area, five of these species are listed as endangered under the ESA including: The fin, humpback, sei, and sperm whales and the Mediterranean monk seal. Population trends for the Mediterranean monk seal globally are variable with some sub populations decreasing and others remaining stable or even indicating slight increases. The western north Atlantic population of humpback whales is known to be increasing. The other marine mammal species that may be taken by harassment during Lamont-Doherty's seismic survey program are not listed as threatened or endangered under the ESA.

Cetaceans. Odontocete reactions to seismic energy pulses are usually thought to be limited to shorter distances from the airgun(s) than are those of mysticetes, in part because odontocete low-frequency hearing is assumed to be less sensitive than that of mysticetes. Given sufficient notice through relatively slow ship speed, NMFS expects marine mammals to move away from a noise source that is annoying prior to becoming potentially injurious.

Potential impacts to marine mammal habitat were discussed previously in this document (see the ''Anticipated Effects on Habitat'' and Responses to Comments sections). Although some disturbance is possible to food sources of marine mammals, the impacts are anticipated to be minor enough as to not affect annual rates of recruitment or survival of marine mammals in the area. Based on the size of the eastern Mediterranean Sea where feeding by marine mammals occurs versus the localized area of the marine survey activities, any missed feeding opportunities in the direct project area will be minor based on the fact that other feeding areas exist elsewhere (Costa, 1993; New *et al.,* 2014). Taking into account the planned mitigation measures, effects on cetaceans are generally expected to be restricted to avoidance of a limited area around the survey operation and short-term changes in behavior, falling within the MMPA definition of ''Level B harassment.'' Animals are not expected to permanently abandon any area that is surveyed, and any behaviors that are interrupted during the activity are expected to resume once the activity ceases. Only a small portion of marine mammal habitat will be affected at any time, and other areas within the Mediterranean Sea will be available for necessary biological functions.

Mediterranean Monk Seal. The Mediterranean monk seal is non-migratory and has a very limited home range (Gucu *et al.,* 2004; Dendrinos *et al.,* 2007a; Adamantopoulou *et al.,* 2011). It historically occupied open beaches, rocky shorelines, and spacious arching caves, but now almost exclusively uses secluded coastal caves for hauling out and breeding. Available data from Greece indicate that Mediterranean monk seals appear to have fairly restricted ranges (from about 100 to 1,000 km^2) (Adamantopoulou *et al.,* 2011). Although primary habitat seems to be nearshore shallow waters, movement over deep oceanic waters does occur (Adamantopoulou *et al.,* 2011; Dendrinos *et al.,* 2007a; Sergeant *et al.,* 1978). Unlike most other seal species, Mediterranean monk seals are known to haul-out in grottos or caves frequently accessible only by underwater entrances, (Bareham and Furreddu, 1975; Bayed *et al.* 2005; CMS, 2005; Dendrinos *et al.,* 2007b) and movement into and out of these locations is not clearly tied to sea or tide state, day or night, or sea/air temperature in some cases (Bareham and Furreddu, 1975; Dendrinos *et al.,* 2001; Marchessaux and Duguy, 1977; Sergeant *et al.,* 1978).

Monk seals are more particular when selecting caves for breeding versus caves for resting (Gücü *et al.,* 2004; Karamanlidis *et al.,* 2004; Dendrinos *et al.* 2007b). In Greece, the pupping season lasts from August to December with a peak in births during September through November (MOm, 2009). Suitable pupping sites tend to have multiple entrances with soft substrate beaches in their interior which lowers the risk of pup washout (Dendrinos *et al.,* 2007). There are several caves suitable for pupping and/or resting occur near the action area (Dendrinos *et al.,* 2008) including caves for resting and reproduction on Anafi Island located within the eastern perimeter of the proposed action area and on the Kimolos-Polyaigos Island complex located approximately 60 km (37 mi) northwest of the outer perimeter of the proposed action area (Mom, 2014). NMFS does not expect that the proposed survey would ensonify the caves with pups because the cave's long entrance corridors which act as wave breakers (Dendrinos *et al.,* 2007) could also offer additional protection for lactating pups from sound generated during the proposed survey.

During parturition, lactating females leave the maternity caves as soon as possible after birth in search of food. Based upon a few tagged individuals, lactating female Mediterranean monk seals generally dive in waters 40–60 m deep and have a maximum known dive depth of 180 m (CMS, 2005). Monk seals may focus on areas shallower (2–25 m deep) while foraging (CMS, 2005). Pups tend to remain in shallow, nearshore waters and gradually distribute further from natal caves into waters up to 40 m deep (CMS, 2005; Gazo, 1997; Gazo *et al.,* 2006). In Greek waters, seals may generally stay even closer to their haul-out locations (within a few miles) (Marchessaux and Duguy, 1977). Female Mediterranean monk seals also have the ability to take foraging trips up to 70 km (43 miles) (Adamantopoulou *et al.,* 2011) which NMFS expects would

buffer foraging mothers from short-term variations in prey availability within the action area ((Costa, 1993), as cited in New *et al.,* 2014). NMFS has no information to suggest that an animal eliciting a behavioral response (*e.g.,* temporary disruption of feeding) to the proposed seismic survey would be unable to compensate for this temporary disruption in feeding activity by either immediately feeding at another location, by feeding shortly after cessation of acoustic exposure, or by feeding at a later time.

NMFS expects that it is unlikely that mothers would remain within the cave because of their need to forage and feed their pups. The closest approach of the *Langseth* to Anafi Island is approximately four km (2.5 mi) away from the northwest portion of the Island. During foraging, Mediterranean monk seal mothers may not react at all to the sound from the proposed survey or may alert, ignore the stimulus, change their behavior, or avoid the immediate area by swimming away or diving. Behavioral responses can range from a mild orienting response, or a shifting of attention, to flight and panic. Research and observations show that pinnipeds in the water are generally tolerant of anthropogenic noise and activity. They may react in a number of ways depending on their experience with the sound source and what activity they are engaged in at the time of the exposure.

Taking into account the required mitigation measures to delay the conduct of survey lines acquired around Anafi Island to avoid the densest part of the pupping season and the required mitigation measure to shut down the airguns any time a pinniped is detected by observers around the vessel, effects on Mediterranean monk seals are generally expected to be restricted to avoidance of a limited area around the survey operation and short-term changes in behavior, falling within the MMPA definition of ''Level B harassment.'' NMFS does not expect the animals to permanently abandon their caves, and any behaviors interrupted during the activity are expected to resume once the short-term activity ceases or moves away.

For reasons stated previously in this document and based on the following factors, Lamont-Doherty's specified activities are not likely to cause long-term behavioral disturbance, permanent threshold shift, or other non-auditory injury, serious injury, or death. They include:

- The anticipated impacts of Lamont-Doherty's survey activities on marine mammals are temporary behavioral changes due to avoidance of the area;
- The likelihood that, given sufficient notice through relatively slow ship speed, NMFS expects marine mammals to move away from a noise source that is annoying prior to its becoming potentially injurious;
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the operation of the airgun(s) to avoid acoustic harassment;
- NMFS also expects that the seismic survey would have no more than a temporary and minimal adverse effect on any fish or invertebrate species that serve as prey species for marine mammals, and therefore consider the potential impacts to marine mammal habitat minimal;
- The high likelihood that trained visual protected species observers would detect marine mammals at close proximity to the vessel.

Table 6 in this document outlines the number of requested Level A and Level B harassment takes that we anticipate as a result of these activities. NMFS anticipates that 22 marine mammal species could occur in the proposed action area.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (*i.e.,* 24 hour cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). While NMFS anticipates that the seismic operations would occur on consecutive days, the estimated duration of the survey would last no more than 20 days but would increase sound levels in the marine environment in a relatively small area surrounding the vessel (compared to the range of most of the marine mammals within the proposed survey area), which is constantly travelling over distances, and some animals may only be exposed to and harassed by sound for less than a day.

Required mitigation measures, such as shutdowns for pinnipeds, vessel speed, course alteration, and visual monitoring would be implemented to help reduce impacts to marine mammals. Therefore, the exposure of pinnipeds to sounds produced by this phase of Lamont-Doherty's seismic survey is not anticipated to have an adverse effect on annual rates of recruitment or survival on the Mediterranean monk seal population (see New *et al.,* 2014), and therefore would have a negligible impact.

Based on the analysis 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 finds that Lamont-Doherty's proposed seismic survey would have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

As mentioned previously, NMFS estimates that Lamont-Doherty's activities could potentially affect, by Level B harassment, 22 species of marine mammals under our jurisdiction. NMFS estimates that Lamont-Doherty's activities could potentially affect, by Level A harassment, up to four species of marine mammals under our jurisdiction.

For each species, the numbers of take being proposed for authorization are small numbers relative to the population sizes: less than 14 percent for long-finned pilot whales, less than 11 percent of the regional population estimates of Mediterranean monk seals, and less than four percent or less for all other species. NMFS has provided the regional population and take estimates for the marine mammal species that may be taken by Level A and Level B harassment in Table 2 and Table 6 in this notice.

NMFS finds that the incidental take authorized in Table 6 for the activity would be small relative to the affected species or stocks. In addition, NMFS also considered the seasonal distribution and habitat use patterns of Mediterranean monk seals, which suggest that for much of the time only a small portion of the population will be accessible to impacts from Lamont-Doherty's activity. Therefore, NMFS determined that the numbers of animals likely to be taken are small.

For two species, when considering take that would occur in the entire action area (including the part within the territorial seas, in which the MMPA does not apply) the number of instances is 11.84 for short-beaked common dolphins and 13.75 percent for short-beaked common dolphins, respectively (Table 5). While these additional takes were not evaluated under the ''small number'' standard because we are not authorizing them, these total takes (which are overestimates because NMFS' take estimate methodology assumes new exposures every day), were still considered in in our negligible impact determination, which considered all of the effects of the

action, even those that occur outside of the jurisdiction of the MMPA.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

Endangered Species Act (ESA)

There are six marine mammal species listed as endangered under the Endangered Species Act that may occur in the proposed survey area. Under section 7 of the ESA, NSF initiated formal consultation with NMFS on the proposed seismic survey. NMFS (*i.e.,* National Marine Fisheries Service, Office of Protected Resources, Permits and Conservation Division) also consulted internally with NMFS on the proposed issuance of an Authorization under section 101(a)(5)(D) of the MMPA.

In October, 2015, the Endangered Species Act Interagency Cooperation Division issued a Biological Opinion with an Incidental Take Statement to us and to the NSF which concluded that the issuance of the Authorization and the conduct of the seismic survey were not likely to jeopardize the continued existence of fin, humpback, sei, and sperm whales and the Mediterranean monk seal. The Biological Opinion also concluded that the issuance of the Authorization and the conduct of the seismic survey would not affect designated critical habitat for these species.

National Environmental Policy Act (NEPA)

NSF has prepared an environmental analysis titled ''*Environmental Analysis of a Marine Geophysical Survey by the R/V Marcus G. Langseth in the Eastern Mediterranean Sea, November–December, 2015.''* NMFS has also prepared an environmental assessment (EA) titled, ''Proposed Issuance of an Incidental Harassment Authorization to Lamont Doherty Earth Observatory to Take Marine Mammals by Harassment Incidental to a Marine Geophysical Survey in the Eastern Mediterranean Sea, November—December 2015,'' which tiers off of NSF's environmental analysis. NMFS and NSF provided relevant environmental information to the public through the notice for the proposed authorization (80 FR 53623, September 4, 2015) and considered public comments received prior to finalizing our EA and deciding whether or not to issue a Finding of No Significant Impact (FONSI). NMFS concluded that issuance of an Incidental Harassment Authorization to Lamont-Doherty would not significantly affect the quality of the human environment and prepared and issued FONSI in accordance with NEPA and NOAA Administrative Order 216–6. NMFS' EA and FONSI for this activity are available upon request (see **ADDRESSES**).

Authorization

NMFS has issued an Incidental Harassment Authorization to Lamont-Doherty for the take of marine mammals, incidental to conducting a marine seismic survey in the Mediterranean Sea November 19 through December 31, 2015.

Dated: October 29, 2015.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–27990 Filed 11–2–15; 8:45 a.m.]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for National Marine Sanctuary Advisory Councils

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: ONMS is seeking applications for vacant seats for five of its 13 national marine sanctuary advisory councils (advisory councils). Vacant seats, including positions (*i.e.,* primary member and alternate), for each of the advisory councils are listed in this notice under **SUPPLEMENTARY INFORMATION**. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; views regarding the protection and management of marine or Great Lake resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen as members or alternates should expect to serve two- or three year terms, pursuant to the charter of the specific national marine sanctuary advisory council.

DATES: Applications are due by November 30, 2015.

ADDRESSES: Application kits are specific to each advisory council. As such, application kits must be obtained from and returned to the council-specific addresses noted below.

- Greater Farallones National Marine Sanctuary Advisory Council: Carolyn Gibson, Greater Farallones National Marine Sanctuary, 991 Marine Drive, The Presidio, San Francisco, CA 94129; (415) 561–6622 extension 306; email *Carolyn.Gibson@noaa.gov;* or download application from *http://farallones.noaa.gov/manage/sac.html.*
- Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council: Inouye Regional Center, ATTN: NOS/ONMS/Shannon Lyday, 1845 Wasp Blvd., Building 176, Honolulu, HI 96818; (808) 725–5905; email *Shannon.Lyday@noaa.gov;* or download application from *http://hawaiihumpbackwhale.noaa.gov/council/council_app_accepting.html.*
- Monterey Bay National Marine Sanctuary Advisory Council: Nichole Rodriguez, Monterey Bay National Marine Sanctuary, 99 Pacific St. Building 455A, Monterey, CA; (831) 647–4206; email *Nichole.Rodriguez@noaa.gov;* or download application from *http://montereybay.noaa.gov/sac/2015/recruit15v2/151102covlet.html.*
- National Marine Sanctuary of American Samoa Advisory Council: Joseph Paulin, National Marine Sanctuary of American Samoa, Tauese P.F. Sunia Ocean Center, P.O. Box 4318, Pago Pago, AS 96799 (Utulei, American Samoa); (684) 633–6500; email *Joseph.Paulin@noaa.gov;* or download application from *http://americansamoa.noaa.gov/about/samoa.html.*
- Olympic Coast National Marine Sanctuary Advisory Council: Karlyn Langjahr, Olympic Coast National Marine Sanctuary, 115 East Railroad Ave., Suite 101, Port Angeles, WA 98362; (360) 457–6622 extension 31; email *Karlyn.Langjahr@noaa.gov;* or download application from *http://olympiccoast.noaa.gov/involved/sac/sac_welcome.html.*

FOR FURTHER INFORMATION CONTACT: For further information on a particular national marine sanctuary advisory council, please contact the individual identified in the Addresses section of this notice.

SUPPLEMENTARY INFORMATION: ONMS serves as the trustee for 14 marine protected areas encompassing more than 170,000 square miles of ocean and Great Lakes waters from the Hawaiian Islands to the Florida Keys, and from Lake Huron to American Samoa. National marine sanctuaries protect our Nation's most vital coastal and marine natural and cultural resources, and through active research, management, and public engagement, sustains healthy

environments that are the foundation for thriving communities and stable economies. One of the many ways ONMS ensures public participation in the designation and management of national marine sanctuaries is through the formation of advisory councils. National marine sanctuary advisory councils are community-based advisory groups established to provide advice and recommendations to the superintendents of the national marine sanctuaries on issues including management, science, service, and stewardship; and to serve as liaisons between their constituents in the community and the sanctuary. Additional information on ONMS and its advisory councils can be found at *http://sanctuaries.noaa.gov.* Information related to the purpose, policies and operational requirements for advisory councils can be found in the charter for a particular advisory council (*http://sanctuaries.noaa.gov/management/ac/council_charters.html*) and the National Marine Sanctuary Advisory Council Implementation Handbook (*http://www.sanctuaries.noaa.gov/management/ac/acref.html*).

The following is a list of the vacant seats, including positions (*i.e.,* primary member or alternate), for each of the advisory councils currently seeking applications for members and alternates:

Greater Farallones National Marine Sanctuary Advisory Council: Public Youth (alternate).

Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council: Citizen-at-large (alternate); Education (alternate); Fishing (primary); Fishing (alternate); Hawai'i County (primary); Hawai'i County (alternate); Honolulu County (primary); Kaua'i County (primary); Kaua'i County (alternate); Lāna'i Island (alternate); Research (primary); Maui County (primary); Maui County (alternate); Moloka'i Island (alternate); Tourism (alternate); Whale Watching (primary); and Whale Watching (alternate).

Monterey Bay National Marine Sanctuary Advisory Council: At-Large (alternate).

National Marine Sanctuary of American Samoa Advisory Council: Business/Industry (primary).

Olympic Coast National Marine Sanctuary Advisory Council: Education (primary); Education (alternate); Fishing (primary); Fishing (alternate); Marine Resources Committee (primary); Marine Resources Committee (alternate); and Tourism/Economic Development (alternate).

Authority: 16 U.S.C. Sections 1431, *et seq.* (Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: September 30, 2015.

John Armor,

Acting Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2015–27987 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD131

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Construction of the Block Island Transmission System

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

ACTION: Notice; issuance of a revised incidental harassment authorization.

SUMMARY: Notice is hereby given that we have revised an incidental harassment authorization (IHA) issued to The Narragansett Electric Company, doing business as National Grid (TNEC), to take marine mammals, by harassment, incidental to construction of the Block Island Transmission System (BITS). The project has been delayed and the effective dates revised accordingly.

DATES: This authorization is now effective from October 30, 2015, through October 29, 2016.

ADDRESSES: A copy of this revised IHA is available by writing to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

An electronic copy of this revised IHA may be obtained by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/.*

FOR FURTHER INFORMATION CONTACT: John Fiorentino, Office of Protected Resources, NMFS, (301) 427–8477.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 2014, NMFS issued an IHA to Deepwater Wind Block Island Transmission, LLC (DWBIT) to take marine mammals, by Level B harassment, incidental to construction of the BITS, effective from November 1, 2014 through October 31, 2015 (79 FR 51314). On January 30, 2015, DWBIT sold the BITS, in its entirety, to The Narragansett Electric Company, doing business as National Grid (TNEC). We issued a revised IHA reflecting this change in the name of the holder on June 3, 2015, with the dates of effectiveness of the IHA, and all mitigation, monitoring, and reporting requirements, remaining unchanged. The BITS, a bi-directional submarine transmission cable, will interconnect Block Island to TNEC's existing distribution system in Narragansett, Rhode Island. In-water work associated with the project was expected to be completed within the one-year timeframe of the IHA (effective dates originally November 1, 2014 through October 31, 2015). The following specific aspects of the planned activities are likely to result in the take of marine mammals: Vibratory pile driving and the use of dynamically positioned (DP) vessel thrusters. Take, by Level B Harassment only, of individuals of nine species (Atlantic white-sided dolphin, short-beaked common dolphin, harbor porpoise, minke whale, fin whale, humpback whale, North Atlantic right whale, gray seal, and harbor seal) is anticipated to result from the specified activity.

Summary of the Activity

TNEC plans to construct a bi-directional submarine transmission cable that will run from Block Island to the Rhode Island mainland. Construction of the marine portion of the BITS will involve three activities: Cable landfall construction on Block Island using a short-distance horizontal directional drill (HDD) from a temporary excavated trench box on Crescent Beach; cable landfall construction on Scarborough State Beach in Narragansett, Rhode Island using a long-distance HDD from a temporary offshore cofferdam; and installation of the submarine BITS cable. The BITS will interconnect Block Island to the existing Narragansett Electric Company National Grid distribution system on the Rhode Island mainland. Cable landfall construction may require the installation and removal of a temporary offshore cofferdam, which will involve vibratory pile driving. The generation of underwater noise from vibratory pile driving and the DP vessel thruster may result in the incidental take of small numbers of marine mammals.

Summary of the Revision

Construction activities have been delayed for the project due to a construction schedule dependent upon receipt of all environmental permits and licenses, procurement and completion

of final engineering design. The final permit approval and contractor award were issued in late Winter 2015 and final engineering design was not completed until Fall 2015. Therefore, construction activities have not commenced to date. No in-water work has occurred, including all aspects of the specified activity considered in our issuance of the IHA. The IHA, as issued, is a one-year IHA with no consideration of seasonality in timing any component of the specified activity.

Findings

Marine Mammal Protection Act (MMPA)—As required by the MMPA in order to issue an IHA, we determined that (1) the required mitigation measures are sufficient to reduce the effects of the specified activities to the level of least practicable impact; (2) the authorized takes will have a negligible impact on the affected marine mammal species; (3) the authorized takes represent small numbers relative to the affected stock abundances; and (4) TNEC's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action. Shifting the effective dates of the IHA to accommodate TNEC's delayed schedule for this project has no effect on our analysis of project impacts and does not affect our findings. There are no changes to any construction methodologies.

National Environmental Policy Act (NEPA)—In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, NMFS prepared an Environmental Assessment (EA) analyzing the potential impacts of the issuance of an IHA for the BITS construction. The final EA was prepared in July 2014 and NMFS made a Finding of No Significant Impact for this action on August 19, 2014. These documents are available on our Web site at *http://www.nmfs.noaa.gov/pr/permits/incidental/energy_other.htm.*

The potential environmental impacts of the revision to the BITS IHA are within the scope of the environmental impacts analyzed in the EA. NMFS has determined that there are no substantial changes to the action and that there are no new direct, indirect, or cumulative effects to the human environment resulting from the revision to the IHA. Therefore, NMFS has determined that new or supplemental EAs or Environmental Impact Statements are unnecessary, and reaffirms the existing FONSI for this action.

Endangered Species Act (ESA)—There are three marine mammal species that are listed as endangered under the ESA: Fin whale, humpback whale, and North Atlantic right whale. Under section 7 of the ESA, the U.S. Army Corps of Engineers (the federal permitting agency for the actual BITS construction) consulted with NMFS on the proposed BITS project. NMFS also consulted internally on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. NMFS Northeast Region (now known as the Greater Atlantic Regional Office (GARFO)) issued a Biological Opinion on January 30, 2014, concluding that the Block Island Wind Farm project (which includes the BITS) and NMFS' issuance of an IHA may adversely affect but are not likely to jeopardize the continued existence of fin whale, humpback whale, or North Atlantic right whale. The Biological Opinion further concluded that critical habitat would not be affected by the proposed action since it did not occur in the action area. NMFS determined the revision to the IHA to change the authorization period of effectiveness to October 30, 2015, through October 29, 2016 falls within the scope of what was analyzed in the Biological Opinion and does not change the basis for NMFS' original determinations. In a memo dated October 21, 2015, NMFS made the determination that a re-initiation of a section 7 formal consultation was not necessary.

In summary, no new information is available that would substantively affect our analyses under the MMPA, NEPA, or ESA. All mitigation, monitoring, and reporting measures described in our notice of issuance of the IHA remain in effect. The species for which take was authorized and the numbers of incidences of take authorized are unchanged.

As a result of the foregoing, we have revised the IHA issued to TNEC for construction of the BITS. The IHA is now effective from October 30, 2015, through October 29, 2016. With these revised dates, TNEC can perform the installation of the cofferdam and submarine cable intended to meet the Block Island Wind Farm operational deadline of December 2016.

Dated: October 29, 2015.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–27974 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE288

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Committee Meeting on Thursday, November 19, 2015 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, November 19, 2015 at 9 a.m.

ADDRESSES: The meeting will be held at the Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000; fax: (401) 732–9309.

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

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

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will review Amendment 19 alternatives, analyses, and public comments received to date and make final recommendations. Amendment 19 was developed to consider measures to better align fishery allocations with the start of the scallop fishing year. They will also review Framework 27 alternatives and analyses and make final recommendations. Framework 27 was developed to consider fishery allocations for fishing year 2016 and default measures for fishing year 2017. The Committee will review progress to date and potentially provide input on a future Council sponsored workshop related to concerns raised about inshore scallop fishing patterns. Finally, the Committee will review and potentially provide input on draft guidance prepared by NMFS related to the Magnuson Act requirement to evaluate limited access privilege programs within five years after adoption. Other business may be discussed if time permits.

Special Accommodations

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

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

Dated: October 29, 2015.

Jeffrey N. Lonergan,

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

[FR Doc. 2015–27951 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE278

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

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

DATES: This meeting will be held on Wednesday, November 18, 2015, at 9 a.m.

ADDRESSES: The meeting will be held at the Radisson Hotel Providence Airport, 2081 Post Road, Warwick, RI 02886; phone: (401) 739–3000; fax: (401) 732–9309.

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

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

SUPPLEMENTARY INFORMATION:

Agenda

The committee will receive an overview from the Groundfish Plan Development Team (PDT) on draft alternatives in Framework Adjustment 55 (FW 55) specifications, changes to the groundfish monitoring program, and other management measures and draft impacts analysis. They will also review a presentation on the results from Northeast Fisheries Science Center's bioeconomic model for recreational fisheries in the Gulf of Maine. The committee also plans to consider recommendations from the Groundfish Advisory Panel, regarding FW 55 and 2016 Council priorities. They will also consider recommendations from the Recreational Advisory Panel (RAP), regarding FW 55, FY 2016 Gulf of Maine cod and Gulf of Maine haddock recreational measures, and 2016 Council priorities. The committee also plans to develop recommendations to the Council regarding preferred alternatives in FW 55, FY 2016 recreational measures, and 2016 Council priorities. Also on the agenda is to discuss GARFO's Recreational Implementation Plan, review RAP recommendations to the Committee, and develop recommendations to the Council. They will also discuss other business as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

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

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

Dated: October 29, 2015.

Jeffrey N. Lonergan,

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

[FR Doc. 2015–27949 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE287

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel on Wednesday, November 18, 2015, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Wednesday, November 18, 2015, at 9 a.m.

ADDRESSES: The meeting will be held at the Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000; fax: (401) 732–9309.

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

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

SUPPLEMENTARY INFORMATION:

Agenda

The Advisory Panel will review Amendment 19 alternatives, analyses, and public comments received to date and make final recommendations. Amendment 19 was developed to consider measures to better align fishery allocations with the start of the scallop fishing year. The Advisory Panel will also review Framework 27 alternatives and analyses and make final recommendations. Framework 27 was developed to consider fishery allocations for fishing year 2016 and default measures for fishing year 2017. They will also review progress to date and potentially provide input on a future Council sponsored workshop related to concerns raised about inshore scallop fishing patterns. Finally, the Advisory Panel will review and potentially provide input on draft guidance prepared by NMFS related to the Magnuson Act requirement to evaluate limited access privilege programs within five years after adoption. Other business may be discussed, if time permits.

Special Accommodations

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

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

Dated: October 29, 2015.

Jeffrey N. Lonergan,

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

[FR Doc. 2015–27950 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO–P–2015–0055]

Proposed Pilot Program Exploring an Alternative Approach to Institution Decisions in Post Grant Administrative Reviews; Reopening of Period for Comments

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for comments; reopening of comment period.

SUMMARY: The United States Patent and Trademark Office (USPTO) is requesting comments on a proposed pilot program pertaining to the institution and conduct of the post grant administrative trials provided for in the Leahy-Smith America Invents Act (AIA), Public Law 112–29, 125 Stat. 284 (2011). The AIA provides for the following post grant administrative trials: *Inter Partes* Review (IPR), Post-Grant Review (PGR), and Covered Business Method Patent Review (CBM). The USPTO currently has a panel of three Administrative Patent Judges (APJs) decide whether to institute a trial, and then normally has the same three-APJ panel conduct the trial, if instituted. The USPTO is considering a pilot program under which the determination of whether to institute an IPR will be made by a single APJ, with two additional APJs being assigned to the IPR if a trial is instituted. Under this pilot program, any IPR trial will be conducted by a panel of three APJs, two of whom were not involved in the determination to institute the IPR. The USPTO published a request for comments in the **Federal Register** on August 25, 2015, seeking public comment on a proposed pilot program pertaining to the institution and conduct of these post grant administrative trial proceedings. *See* Request for Comments on a Proposed Pilot Program Exploring an Alternative Approach to Institution Decisions in Post Grant Administrative Reviews, 80 FR 51540 (Aug. 25, 2015). The USPTO is now extending the period for public comment until November 18, 2015.

DATES: *Comment Deadline Date:* Written comments on the notice published August 15, 2015 (80 FR 51540) must be received on or before November 18, 2015.

ADDRESSES: Comments must be sent by electronic mail message over the Internet addressed to: *PTABTrialPilot@uspto.gov.*

Electronic comments submitted in plain text are preferred, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. The comments will be available for viewing via the USPTO's Internet Web site (*http://www.uspto.gov*). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Scott R. Boalick, Vice Chief Administrative Patent Judge by telephone at (571) 272–9797.

SUPPLEMENTARY INFORMATION: The first petitions for AIA post grant administrative trials were filed on September 16, 2012. Since then, over 3,600 petitions have been filed, and over 1,500 trials have been instituted. The USPTO has thus far been able to meet the demands placed on its resources created by the unexpectedly heavy workload. The Patent Trial and Appeal Board (PTAB) has issued over 2,200 decisions on institution and over 450 final written decisions. In three-plus years, the PTAB has not missed one statutory or regulatory deadline. At the same time, the PTAB has reduced the backlog of *ex parte* appeals.

Notwithstanding the success-to-date, the USPTO is proactively looking for ways to enhance its operations for the benefit of its stakeholders and therefore is interested in exploring alternative approaches that might improve its efficiency in handling AIA post grant proceedings while being fair to both sides and continuing to provide high quality decisions. Based upon comments received from the public through public fora and formal requests, the agency is considering a pilot program to test changing how the institution phase of a post grant proceeding is handled.

Once trial is instituted, the AIA mandates that the resulting trial be conducted before a three-member panel of the PTAB. Generally, under current practice, the same panel of three APJs decides whether to institute and, if instituted, handles the remainder of the proceeding, much like how federal district court judges handle cases through motions to dismiss, summary judgment, and trial. But a three-judge panel of the PTAB is not required under the statute prior to institution, and the USPTO believes it is prudent to explore other potentially more efficient options, especially given that the number of petitions filed may continue to increase.

To date and currently, the agency has intended to meet the resource demands on the PTAB due to both AIA post grant proceedings and *ex parte* appeals by hiring additional judges. Even with continued hiring, however, increases in filings and the growing number of cases may strain the PTAB's continuing ability to make timely decisions and meet statutory deadlines. Therefore, the agency wishes to explore and gain data on a potentially more efficient alternative to the current three-judge institution model. Having a single judge decide whether to institute trial in a post grant proceeding, instead of a panel of three judges, would allow more judges to be available to attend to other matters, such as reducing the *ex parte* appeal backlog and handling more post grant proceedings. The request for comments on the proposed pilot indicated that written comments must be received on or before October 26, 2015. *See id.* at 51540. In view of stakeholder requests for additional time to submit comments on the new administrative trial proceedings, the USPTO is now extending the period for public comment until November 18, 2015.

Dated: October 29, 2015.

Michelle K. Lee,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2015–28107 Filed 11–2–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF EDUCATION

Notice Inviting Postsecondary Educational Institutions To Participate in Experiments Under the Experimental Sites Initiative; Federal Student Financial Assistance Programs Under Title IV of the Higher Education Act of 1965, as Amended

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary invites postsecondary institutions (institutions) that participate in the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA), to apply to participate in a new institution-based experiment under the Experimental Sites Initiative (ESI). Under the ESI, the Secretary has authority to grant waivers

from certain title IV, HEA statutory or regulatory requirements to allow a limited number of institutions to participate in experiments to test alternative methods for administering the title IV, HEA programs. ESI experiments are designed to facilitate efforts by institutions to explore particular innovative practices aimed at improving student outcomes, the delivery of services, or both.

Under this experiment, participating institutions will be provided a waiver of the specific statutory and regulatory provisions that prevent students who are enrolled in secondary school from receiving Federal Pell Grants for enrollment in title IV-eligible postsecondary programs. Details of the experiment are provided in the *Background* section of this notice.

DATES: Letters of interest to participate in the experiment described in this notice must be received by the Department no later than February 1, 2016 in order for the institution to ensure that it is considered for participation in the experiment. Institutions submitting letters that are received after February 1, 2016 may still be considered for participation, at the discretion of the Secretary.

ADDRESSES: Letters of interest must be submitted by electronic mail to the following email address: *experimentalsites@ed.gov.* For formats and other required information, see ''Instructions for Submitting Letters of Interest'' under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Warren Farr, U.S. Department of Education, Federal Student Aid, 830 First Street NE., Washington, DC 20002. Telephone: (202) 377–4380 or by email at: *Warren.Farr@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Instructions for Submitting Letters of Interest

Interested institutions must submit a letter of interest. Letters of interest must be submitted as a PDF attachment to an email message sent to the email address provided in the **ADDRESSES** section of this notice. The subject line of the email should read ''ESI 2015-Dual Enrollment.'' The text of the email should include the name and address of the institution. The letter of interest should be on institutional letterhead and be signed by the institution's financial aid administrator.

The letter of interest must include the institution's official name and Department of Education Office of Postsecondary Education Identification (OPEID) number, as well as a mailing address, email address, FAX number, and telephone number of a contact person at the institution.

We are interested in information such as (1) a brief description of the proposed dual enrollment arrangement(s) between the institution and one or more public secondary schools or local educational agencies (LEAs) that the institution is considering for participation in the experiment; (2) how the arrangement would meet the requirements described in this notice; (3) if the institution has identified one or more public secondary schools that it will partner with under this experiment, identifying information for each public secondary school, and the school's LEA ; and (4) an estimate of the number of students who will be served under each proposed arrangement with one or a group of public secondary schools or LEAs.

Background

Expanding opportunities for students to enroll and succeed in postsecondary education is vital to building a strong economy and middle class. However, there are numerous barriers preventing some students, particularly those from low-income families, from accessing and completing postsecondary education, such as cost and the lack of access to rigorous coursework and support services.

Dual enrollment, in which students concurrently enroll in postsecondary coursework while in secondary school, has emerged as a promising approach to expand access to postsecondary education. A growing body of research suggests that participation in dual enrollment can lead to improved academic outcomes, especially for students from low-income families and first-generation college students, or those who are otherwise underrepresented in postsecondary education.[1] Research suggests that participation in dual enrollment can lead to increased postsecondary education enrollment following secondary school, higher rates of persistence in postsecondary education, greater credit accumulation, higher grade point averages (GPAs), and increased rates of credential attainment.[2] [3] In addition, studies have found that taking postsecondary-level courses while in secondary school is associated with increased levels of academic preparedness for postsecondary-level coursework and higher rates of secondary school graduation.[4] [5]

Dual enrollment can also facilitate stronger connections between the secondary and postsecondary education sectors by leveraging existing tools that enable closer alignment between secondary schools and postsecondary institutions. For example, some postsecondary institutions have begun using college- and career-ready standards and assessments at the secondary school level as an indicator of academic preparedness for college-level coursework. Despite evidence that dual enrollment programs show promising results for increasing students' college participation and outcomes, cost can be a barrier: at nearly half of institutions with dual enrollment programs, most students pay out of pocket for tuition.[6] States, schools, and organizations can all play a role in investing in dual enrollment programs and ensuring that costs do not pose a barrier to underserved populations.

The objectives of this experiment are to learn about how Federal Pell Grant funding can expand opportunities for students from low-income backgrounds to participate in dual enrollment, explore how Pell Grant funding can expand access to rigorous coursework for high school students, and provide the Department with information regarding the number and characteristics of Pell-eligible students who would likely participate in dual enrollment programs.

For this experiment, the Department is particularly interested in dual enrollment arrangements that are aligned with postsecondary degrees and credentials in high-demand fields,

[1] Karp, M, and Hughes, K. (2008). Study: Dual Enrollment Can Benefit a Broad Range of Students. Techniques: Connecting Education and Careers (J1) 83.7, 14–17.

[2] An, B. P. (2012). ''The Impact of Dual Enrollment on College Degree Attainment: Do Low-SES Students Benefit? Educational Evaluation and Policy Analysis, 35, 57–75.

[3] Karp, M. M., Calcagno, J. C., Hughes, K. L., Jeong, D. W., & Bailey, T. R. (2007). The Achievement of Participants in Dual Enrollment: An Analysis of Student Outcomes in Two States. Saint Paul, MN: University of Minnesota, National Research Center for Career and Technical Education.

[4] Speroni, C. (2011). High School Dual Enrollment Programs: Are We Fast-Tracking Students Too Fast? NCPR Working Paper. National Center for Postsecondary Research.

[5] American Institutes for Research & SRI. (2013). Early College, Early Success: Early College High School Initiative Impact Study. Washington, DC: American Institutes for Research.

[6] Marken, Stephanie et al. (2013). Dual Enrollment Programs and Courses for High School Students at Postsecondary Institutions: 2010–11. U.S. Department of Education, National Center for Education Statistics. *http://nces.ed.gov/pubs2013/2013002.pdf.*

including Science, Technology, Engineering, Mathematics, and Computer Science, and those aligned with career pathways and other career preparation programs. These types of dual enrollment arrangements have been shown to produce strong positive outcomes for students.[7] [8]

Reporting and Evaluation

To evaluate the experiment, participating institutions will be required to collect, maintain, and report information about students receiving Federal Pell Grants under the experiment. This information may include: The number and characteristics of students enrolled in dual enrollment, the number of postsecondary credits the students have attempted and earned, the amount of Federal Pell Grant funding provided to each student, and indicators of academic progression and completion. In addition, participating institutions may be required to report information about the number and characteristics of low-income students who participated in dual enrollment prior to the experiment.

Participating institutions will be required to participate in annual surveys that collect information about the institution's dual enrollment arrangement(s) and any unforeseen challenges. This information may include the characteristics of the institution's dual enrollment arrangement (*e.g.,* tuition and fees, caps on credits earned, support services provided, instructional delivery methods, and faculty characteristics). The Department will finalize the specific evaluation and reporting requirements prior to the start of the experiment.

The Department's evaluation will also include information reported by postsecondary institutions through the Department's systems regarding the enrollment, completion, and withdrawal of students who receive Pell Grant funds under the experiment.

Application and Selection

From the institutions that submit letters of interest, the Secretary will select a limited number of institutions to participate in this experiment. When selecting institutions for participation in this experiment, the Secretary will consider evidence that demonstrates a strong record on student outcomes and in the administration of the title IV, HEA programs. The Secretary will also consider all information available about an institution including, but not limited to, information provided in an institution's letters of interest, evidence of programmatic compliance, completion rates, repayment rates, cohort default rates, financial responsibility ratios, evidence of credit transferability, and with regard to for-profit institutions, ''90/10'' ratios. The Department encourages applications from institutions of various types and controls, geographic locations, enrollment sizes, and title IV, HEA program participation levels, among other characteristics.

Participating institutions will have their Program Participation Agreement with the Secretary amended to reflect the specific statutory and regulatory provisions that the Secretary has waived for the experiment. Administration of the experiment is the responsibility of the entire institution. The institution will be required to acknowledge its commitment to properly administer the experiment.

The Experiment

Description

Section 484(a)(1) of the HEA and 34 CFR 668.32(b) specifically prohibit a student from receiving title IV assistance, including Federal Pell Grants, if the student is, in addition to being enrolled in an eligible postsecondary educational program, also enrolled in secondary school. Under this experiment, the Secretary will waive the statutory and regulatory provisions that prevent a student who is enrolled in secondary school from receiving Federal Pell Grants for enrollment in a postsecondary educational program. The Secretary will also waive, for the students included in the dual enrollment experiment, the requirement that a student must have a high school diploma or its recognized equivalent in order to receive title IV aid.

The Secretary does not waive any dual enrollment participation requirements that participating institutions, public secondary schools, State Educational Agencies, or LEAs may already have.

Consistent with the waiver authority granted to the Secretary under section 487A(b) of the HEA, this experiment will examine the extent to which waiving the restrictions on providing Federal Pell Grants to secondary school students increases low-income student participation in dual enrollment. Under the experiment, the student and the postsecondary program in which the student enrolls must meet all other title IV eligibility requirements in order for the student to receive a Federal Pell Grant.

Institutional Eligibility

To participate in the experiment, the institution must have an arrangement with one or more LEAs or public secondary schools, as defined by the State in which the public secondary school is located, to permit public secondary school students to enroll in a title IV-eligible postsecondary program.

Under this experiment, the arrangement between the postsecondary educational institution and an LEA or public secondary school must:

- Require dually enrolled students to enroll in a title IV eligible postsecondary program as regular students, as defined by 34 CFR 600.2.
- Provide that students will receive Federal Pell Grants only for coursework that applies towards completion of a postsecondary credential at the participating institution. Such coursework may, but is not required to, apply towards a secondary school diploma. Participating institutions should ensure that dual enrollment arrangements do not impede participating students' academic progress and persistence in secondary school.
- Offer students the opportunity to earn the equivalent of at least 12 postsecondary credit hours while also enrolled in a public secondary school.
- Ensure that students are adequately prepared academically for postsecondary-level coursework. This may include ensuring that students meet any relevant requirements that may apply for enrollment, such as grade point average, placement tests, and course prerequisite requirements.
- Prohibit the use of Federal Pell Grant funds for remedial coursework taken by students who are enrolled in a public secondary school.
- Provide appropriate student support services, such as academic tutoring, high school to college transition support, guidance counseling, or other comparable services designed to increase student preparation for and success in postsecondary education. These services may be provided by the public secondary school, the institution, the LEA, or by another entity.
- Provide assistance completing the Free Application for Federal Student Aid (FAFSA). This assistance may be provided by the public secondary

[7] Hughes, K., et al. (2012). Broadening the Benefits of Dual Enrollment: Reaching Underachieving and Underrepresented Students with Career-Focused Programs. Insight. James Irvine Foundation.

[8] Rodríguez, O., Hughes, K. L., & Belfield, C. (2012). Bridging College and Careers: Using Dual Enrollment to Enhance Career and Technical Education Pathways. Available at: *http://ccrc.tc.columbia.edu/publications/bridging-college-careers-dual-enrollment.html.*

school, the institution, the LEA, or by another entity.

To the extent that the institution has information about potential restrictions on the transferability of the credits that secondary students may receive under the institution's dual enrollment arrangement, the institution must disclose this information to students and their families prior to the student's participation in the dual enrollment experiment.

Participating institutions must ensure that after all Federal Pell Grants, State, local, institutional aid, or other resources have been applied to student charges, students are not responsible for any remaining institutional charges as a result of enrolling in the postsecondary program as part of the institution's dual enrollment arrangement under the experiment.

Use of Funds

Federal Pell Grants made available to students to enroll in participating institutions through this experiment must not supplant public and institutional sources of funding for an institution's dual enrollment arrangement(s). To verify and monitor this requirement, participating institutions will be required to annually submit to the Department information about the total cost of operating the dual enrollment arrangement and the sources of funding for the arrangement. The Secretary may remove an institution from the experiment if the Secretary determines that Federal Pell Grant funds have been used to supplant existing funding sources.

Waivers

Institutions selected for this experiment will be exempt from the following statutory and regulatory provisions:

- Section 484(a)(1) of the HEA and 34 CFR 668.32(b), to the extent that the statute and regulations prohibit a student who is enrolled in a public secondary school from receiving funds under the Federal Pell Grant program;
- Section 484(d) of the HEA and 34 CFR 668.32(e), to the extent that the statute and regulations require that a student have a high school diploma, or its recognized equivalent, to be eligible for Federal Pell Grant funds.

All other provisions and regulations of the title IV, HEA programs will apply to institutions participating in this experiment.

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

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

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

Delegation of Authority: The Secretary of Education has delegated authority to Jamienne S. Studley, Deputy Under Secretary, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Program Authority: 20 U.S.C. 1094a(b).

Dated: October 29, 2015.

Jamienne S. Studley,

Deputy Under Secretary.

[FR Doc. 2015–28010 Filed 11–2–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice Of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–19–000.

Applicants: Calpine Granite Holdings, LLC, Granite Ridge Energy, LLC.

Description: Joint Application of Calpine Granite Holdings, LLC and Granite Ridge Energy, LLC for Approval under Section 203 of the Federal Power Act and Request for Shortened Comment Period.

Filed Date: 10/27/15.

Accession Number: 20151027–5317.

Comments Due: 5 p.m. ET 11/17/15.

Docket Numbers: EC16–20–000.

Applicants: Latigo Wind Park, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, Request for Expedited Consideration and Confidential Treatment of Latigo Wind Park, LLC.

Filed Date: 10/28/15.

Accession Number: 20151028–5135.

Comments Due: 5 p.m. ET 11/18/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–1875–002.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing: 2015–10–27 Limited Tariff Waiver Petition to Modify CCE2 Effective Date to be effective N/A.

Filed Date: 10/27/15.

Accession Number: 20151027–5280.

Comments Due: 5 p.m. ET 11/17/15.

Docket Numbers: ER15–1919–003.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing: 2015–10–27 Limited Tariff Waiver Petition to Modify EIM Year 1 Effective Date to be effective N/A.

Filed Date: 10/27/15.

Accession Number: 20151027–5278.

Comments Due: 5 p.m. ET 11/17/15.

Docket Numbers: ER15–2059–001.

Applicants: New York Independent System Operator, Inc.

Description: Tariff Amendment: Deficiency response and refiling of OATT PPTPP tariff revisions to be effective 12/26/2015.

Filed Date: 10/27/15.

Accession Number: 20151027–5261.

Comments Due: 5 p.m. ET 11/17/15.

Docket Numbers: ER15–2204–002.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing: 2015–10–27 Limited Tariff Waiver Petition to Modify ETC–TOR Effective Date to be effective N/A.

Filed Date: 10/27/15.

Accession Number: 20151027–5281.

Comments Due: 5 p.m. ET 11/17/15.

Docket Numbers: ER16–150–000.

Applicants: Northern States Power Company, a Minnesota corporation, Northern States Power Company, a Wisconsin corporation.

Description: Notice of Cancellation of Rate Schedules 434, 398, 451, and 84 of Northern States Power Company, a Minnesota corporation, *et al.*

Filed Date: 10/27/15.

Accession Number: 20151027–5315.

Comments Due: 5 p.m. ET 11/17/15.

Docket Numbers: ER16–151–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2236R6 Golden Spread Electric Cooperative, Inc. NITSA/NOA to be effective 10/1/2015.

Filed Date: 10/28/15.

Accession Number: 20151028–5113.

Comments Due: 5 p.m. ET 11/18/15.

Docket Numbers: ER16–152–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Section 39.3 Revisions to allow Western-RMR's Continued Market Participation to be effective 10/1/2015.

Filed Date: 10/28/15.

Accession Number: 20151028–5121.

Comments Due: 5 p.m. ET 11/18/15.

Docket Numbers: ER16–153–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: NCMPA1 RS 318 Amendment (2016) to be effective 12/31/2015.

Filed Date: 10/28/15.

Accession Number: 20151028–5218.

Comments Due: 5 p.m. ET 11/18/15.

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

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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

DATED: October 28, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–27975 Filed 11–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–154–000.

Applicants: PacifiCorp.

Description: Tariff Cancellation: Termination of Lehi Highland Sub Trans Line Upgrade Construction Agreement to be effective 1/17/2016.

Filed Date: 10/28/15.

Accession Number: 20151028–5244.

Comments Due: 5 p.m. ET 11/18/15.

Docket Numbers: ER16–155–000.

Applicants: Wabash Valley Power Association, Inc.

Description: Section 205(d) Rate Filing: Amendments to Formulary Rate Tariff for Service to Members—Clone to be effective 1/1/2016.

Filed Date: 10/28/15.

Accession Number: 20151028–5292.

Comments Due: 5 p.m. ET 11/18/15.

Docket Numbers: ER16–156–000.

Applicants: Southwest Power Pool, Inc.

Description: Section 205(d) Rate Filing: 607R25 Westar Energy, Inc. NITSA NOA to be effective 10/1/2015.

Filed Date: 10/28/15.

Accession Number: 20151028–5321.

Comments Due: 5 p.m. ET 11/18/15.

Docket Numbers: ER16–157–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Section 205(d) Rate Filing: 2015–10–28_SA 2813 Notice of Termination J293 GIA to be effective 1/17/2016.

Filed Date: 10/28/15.

Accession Number: 20151028–5325.

Comments Due: 5 p.m. ET 11/18/15.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA15–3–000.

Applicants: Duquesne Light Company, Duquesne Power, LLC.

Description: Quarterly Land Acquisition Report of the Duquesne MBR Sellers.

Filed Date: 10/28/15.

Accession Number: 20151028–5227.

Comments Due: 5 p.m. ET 11/18/15.

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

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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

Dated: October 28, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–27976 Filed 11–2–15; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–0819]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before December 3, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the

information collection, contact Nicole Ongele at (202) 418–2991.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0819.

Title: Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund.

Form Number: FCC Forms 497, 481 & 555.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households and business or other for-profit.

Number of Respondents: 28,009,115 respondents; 30,541,922 responses.

Estimated Time per Response: 0.0167 hours to 250 hours.

Frequency of Response: Daily or monthly, every 60 days, annual, biennial, on occasion reporting requirements, third party disclosure requirement and record keeping requirement.

Obligation to Respond: Required to obtain or retain benefits. *Statutory authority* is contained in Sections 1, 4(i), 201–205, 214, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 4(i), 201–205, 214, 254 and 403.

Total Annual Burden: 22,064,798 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: Yes. The Commission completed a Privacy Impact Assessment (PIA) for some of the information collection requirements contain in this collection. The PIA was published in the **Federal Register** at 78 FR 73535 on December 6, 2013. The PIA may be reviewed at: *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.*

Nature and Extent of Confidentiality: Some of the requirements contained in this information collection does affect individuals or households, and thus, there are impacts under the Privacy Act. The FCC's system of records notice (SORN), FCC/WCB–1, ''Lifeline Program.'' The Commission will use the information contained in FCC/WCB–1 to cover the personally identifiable information (PII) that is required as part of the Lifeline Program (''Lifeline'').

As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Commission also published a SORN, FCC/WCB–1 ''Lifeline Program'' in the **Federal Register** on December 6, 2013 (78 FR 73535).

Also, respondents may request materials or information submitted to the Commission or to the Universal Service Administrative Company (USAC or Administrator) be withheld from public inspection under 47 CFR 0.459 of the FCC's rules. We note that USAC must preserve the confidentiality of all data obtained from respondents; must not use the data except for purposes of administering the universal service programs; and must not disclose data in company-specific form unless directed to do so by the Commission.

Needs and Uses: The Commission will submit this information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission also proposes several revisions to this information collection. In June 2015, the Commission adopted an order reforming its low-income universal service support mechanisms. Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund, WC Docket Nos. 11–42, 09–197, 10–90, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, (*Lifeline Second Reform Order*). This revised information collection addresses requirements to carry out the programs to which the Commission committed itself in the *Lifeline Second Reform Order.* Under this information collection, the Commission seeks to revise the information collection to comply with the Commission's new rules, adopted in the 2015 *Lifeline Second Reform Order,* regarding the retention of subscriber eligibility documentation, eligible telecommunications carrier (ETC) designation, and ETC reimbursement under the Lifeline program; update the number of respondents for all the existing information collection requirements, thus increasing the total burden hours for some requirements and decreasing the total burden hours for other requirements; eliminate some requirements as part of this information collection, because they are no longer applicable; revise the FCC Form 555 and the accompanying instructions to require ETCs to provide a Service Provider Identification Number (SPIN); and make non-substantive changes to this information collection, pursuant to 44 U.S.C. 3507, to update the FCC Form 497 Instructions and require the electronic filing of the FCC Forms 497 and 555. These updates do not modify the burdens or costs contained in this information collection.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2015–27927 Filed 11–2–15; 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 November 18, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Banco de Credito e Inversiones, Santiago, Chile;* to acquire voting shares of BCI Securities, Inc., Miami, Florida, and thereby engage in certain institutional broker-dealer activities.

Board of Governors of the Federal Reserve System, October 29, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–27981 Filed 11–2–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et se.*) (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 27, 2015.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *Citizens National Corporation, Winchester, Kentucky;* to acquire 100 percent of the voting shares of Alliance Banking Company, Winchester, Kentucky.

B. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Park Sterling Corporation, Charlotte, North Carolina;* to acquire 100 percent of the voting shares of First Capital Bancorp, Inc., and thereby indirectly acquire First Capital Bank, both in Glen Allen, Virginia.

C. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Community Financial Corp., Edgewood, Iowa;* to acquire 100 percent of Linn County State Bank, Coggon, Iowa.

D. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Citizens Bancshares of Batesville, Inc., Batesville, Arkansas;* to acquire 100 percent of Parkway Bank, Rogers, Arkansas.

E. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Normangee Bancshares, Inc., Normangee, Texas;* to become a bank holding company by acquiring 100 percent of Normangee State Bank, Normangee, Texas.

Board of Governors of the Federal Reserve System, October 29, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–27982 Filed 11–2–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 151 0181]

Step N Grip, LLC; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before November 27, 2015.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/stepngripconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Step N Grip, LLC—Consent Agreement; File No. 151 0181'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/stepngripconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Step N Grip, LLC—Consent Agreement; File No. 151 0181'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Michael Turner (202–326–3649). Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 27, 2015), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before November 27, 2015. Write ''Step N Grip, LLC—Consent Agreement; File No. 151 0181'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health

information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/stepngripconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Step N Grip, LLC—Consent Agreement; File No. 151 0181'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before November 27, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing consent order (''Consent Agreement'') from Step N Grip, LLC (''Step N Grip''). The Commission's Complaint alleges that Step N Grip violated Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by inviting a competitor in the sale of certain rug devices to set and raise prices.

Under the terms of the proposed Consent Agreement, Step N Grip is required to cease and desist from communicating with its competitors about prices. It is also barred from entering into, participating in, inviting, or soliciting an agreement with any competitor to divide markets, to allocate customers, or to fix prices.

The Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested members of the public. Comments received during this period will become part of the public record. After 30 days, the Commission will review the Consent Agreement again and the comments received, and will decide whether it should withdraw from the Consent Agreement or make final the accompanying Decision and Order (''Proposed Order'').

The purpose of this Analysis to Aid Public Comment is to invite and facilitate public comment. It is not intended to constitute an official interpretation of the proposed Consent Agreement and the accompanying Proposed Order or in any way to modify their terms.

I. The Complaints

The allegations of the Complaint are summarized below:

Step N Grip markets and sells a device called NeverCurl that is intended to keep the corners of a rug from curling. Step N Grip sells NeverCurl primarily through Amazon.com; Step N Grip also sells NeverCurl through its own Web site.

Step N Grip's closest competitor in the sale of such rug devices is Competitor A, a company that also sells its product on Amazon.com. For several months prior to June 1, 2015, Step N Grip generally priced NeverCurl at $13.95 per package, while Competitor A priced its product at $16.99 per package.

On June 1, 2015, Competitor A lowered its price on Amazon.com to $13.49 in an effort to compete more aggressively with Step N Grip. In response, Step N Grip lowered its price on Amazon.com to $12.95.

On June 7, 2015, Competitor A lowered its price on Amazon.com to $11.95 in response to Step N Grip. That same day, Step N Grip lowered its price to $11.95 on Amazon.com and sent an email message to Competitor A. The communication, in its entirety, read: ''We both sell at $12.95? Or, $11.95?''

Competitor A reported the communication to the FTC.

II. Analysis

Step N Grip's June 7 message to Competitor A is plainly an attempt to arrange an agreement between the two companies setting and increasing the price of their competing products. It is an invitation to collude. The Commission has long held that invitations to collude violate Section 5 of the FTC Act, and this is unaltered by the Commission's recent Statement on Section 5.

In a recent statement, the Commission explained that unfair methods of competition under Section 5 ''must cause, or be likely to cause, harm to competition or the competitive process, taking into account any associated cognizable efficiencies and business justifications.'' [2] Potential violations are evaluated under a ''framework similar to the rule of reason.'' [3] Competitive effects analysis under the rule of reason depends upon the nature of the conduct that is under review.[4]

An invitation to collude is ''potentially harmful and . . . serves no legitimate business purpose.''[5] For this

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

[2] Fed. Trade Comm'n, Statement of Enforcement Principles Regarding ''Unfair Methods of Competition'' Under Section 5 of the FTC Act (Aug. 13, 2015) (Section 5 Unfair Methods of Competition Policy Statement), *available at https://www.ftc.gov/system/files/documents/public_statements/735201/150813section5enforcement.pdf.* Commissioner Ohlhausen dissented from the issuance of the Section 5 Unfair Methods of Competition Policy Statement. *See https://www.ftc.gov/public-statements/2015/08/dissenting-statement-commissioner-ohlhausen-ftc-act-section-5-policy.*

[3] Section 5 Unfair Methods of Competition Policy Statement.

[4] *See, e.g., California Dental Ass'n* v. *FTC,* 526 U.S. 756, 781 (1999) (''What is required . . . is an inquiry meet for the case, looking to the circumstances, details, and logic of a restraint.'').

[5] *In re Valassis Commc'ns., Inc.,* 141 F.T.C. 247, 283 (2006) (Analysis of Agreement Containing Consent Order to Aid Public Comment); *see also* Address by FTC Chairwoman Edith Ramirez, Section 5 Enforcement Principles, George Washington University Law School at 5 (Aug. 13,

Continued

reason, the Commission treats such conduct as ''inherently suspect'' (that is, presumptively anticompetitive).[6] This means that an invitation to collude can be condemned under Section 5 without a showing that the respondent possesses market power.[7]

The Commission has long held that an invitation to collude violates Section 5 of the FTC Act even where there is no proof that the competitor accepted the invitation.[8] There are various reasons for this. First, unaccepted solicitations may facilitate coordination between competitors because they reveal information about the solicitor's intentions or preferences. Second, it can be difficult to discern whether a competitor has accepted a solicitation. Third, finding a violation may deter similar conduct—conduct that has no legitimate business purpose.[9]

III. The Proposed Consent Order

The Proposed Order contains the following substantive provisions:

Section II, Paragraph A of the Proposed Order enjoins Step N Grip from communicating with its competitors about rates or prices, with a proviso permitting public posting of rates.

Section II, Paragraph B prohibits Step N Grip from entering into, participating in, maintaining, organizing, implementing, enforcing, inviting, offering, or soliciting an agreement with any competitor to divide markets, to allocate customers, or to fix prices.

Section II, Paragraph C bars Step N Grip from urging any competitor to raise, fix or maintain its price or rate levels or to limit or reduce service terms or levels.

Section II, Paragraph D forbids Step N Grip from instructing or encouraging a distributor or seller to engage in the conduct proscribed in Section II, Paragraphs A through C.

Sections III–VI of the Proposed Order impose certain standard reporting and compliance requirements on Step N Grip.

The Proposed Order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2015–27934 Filed 11–2–15; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED
MARCH 1, 2015 THRU SEPTEMBER 30, 2015

03/03/2015		
20150580	G	FMR LLC; The Guardian Life Insurance Company of America; FMR LLC.
03/06/2015		
20150597	G	Accenture plc; Robert E LaRose Revocable Trust; Accenture plc.
20150614	G	Hitachi Ltd.; Pentaho Corporation; Hitachi Ltd.
20150628	G	Healthstream, Inc.; Dan Littrell; Healthstream, Inc.
20150637	G	Elliott International Limited; Informatica Corporation; Elliott International Limited.
20150638	G	3M Company; Ivera Medical Corporation; 3M Company.
20150639	G	Elliott Associates, L.P.; Informatica Corporation; Elliott Associates, L.P.
20150648	G	Fir Tree Value Master Fund, L.P.; CDK Global, Inc.; Fir Tree Value Master Fund, L.P.
20150651	G	Harbour Group Investments VI, L.P.; Audax Private Equity Fund III, L.P.; Harbour Group Investments VI, L.P.
20150655	G	Berwind Corporation; Windjammer Senior Equity Fund III, L.P.; Berwind Corporation.

2015), *available at https://www.ftc.gov/system/files/documents/public_statements/735411/150813section5speech.pdf.*

[6] *See, e.g., In re North Carolina Bd. of Dental Examiners,* 152 F.T.C. 640, 668 (2011) (noting that inherently suspect conduct is such that be ''reasonably characterized as 'giv[ing] rise to an intuitively obviously inference of anticompetitive effect.'" (citation omitted)).

[7] *See, e.g., In re Realcomp II, Ltd.,* 148 F.T.C. ___, No. 9320, 2009 FTC LEXIS 250 at *51 (Oct. 30, 2009) (Comm'n Op.) (explaining that if conduct is ''inherently suspect'' in nature, and there are no cognizable procompetitive justifications, the Commission can condemn it ''without proof of market power or actual effects'').

[8] *See, e.g., In re Valassis Commc'ns, Inc.,* 141 F.T.C. 247 (2006); *In re Stone Container,* 125 F.T.C. 853 (1998); *In re Precision Moulding,* 122 F.T.C. 104 (1996). *See also In re McWane, Inc.,* Docket No. 9351, *Opinion of the Commission on Motions for Summary Decision* at 20–21 (F.T.C. Aug. 9, 2012) (''an invitation to collude is 'the quintessential example of the kind of conduct that should be . . . challenged as a violation of Section 5' '') (citing the Statement of Chairman Leibowitz and Commissioners Kovacic and Rosch, *In re U-Haul Int'l, Inc.,* 150 F.T.C. 1, 53 (2010)). This conclusion has been endorsed by leading antitrust scholars. *See* P. Areeda & H. Hovenkamp, VI ANTITRUST LAW ¶ 1419 (2003); Stephen Calkins, *Counterpoint: The Legal Foundation of the Commission's Use of Section 5 to Challenge Invitations to Collude is Secure,* ANTITRUST Spring 2000, at 69. In a case brought under a state's version of Section 5, the First Circuit expressed support for the Commission's application of Section 5 to invitations to collude. *Liu* v. *Amerco,* 677 F.3d 489 (1st Cir. 2012).

[9] *In re Valassis Comm'c, Inc.,* 141 F.T.C. 247, 283 (2006) (Analysis of Agreement Containing Consent Order to Aid Public Comment).

EARLY TERMINATIONS GRANTED—Continued
MARCH 1, 2015 THRU SEPTEMBER 30, 2015

03/09/2015		
20150117	G	Ingredion Incorporated; Penford Corporation; Ingredion Incorporated.
20150664	G	Rite Aid Corporation; TPG VI DE AIV II, L.P.; Rite Aid Corporation.
20150671	G	WPP plc; comScore, Inc.; WPP plc.
20150675	G	WPP plc; comScore, Inc.; WPP plc.
20150685	G	Heinz Hermann Thiele; Vossloh AG; Heinz Hermann Thiele.
03/11/2015		
20150656	G	LLR Equity Partners IV, L.P.; Generation Capital Partners II LP; LLR Equity Partners IV, L.P.
20150676	G	TPG Magnate Holdings, L.P.; Mossi & Ghisolfi S.p.A.; TPG Magnate Holdings, L.P.
03/12/2015		
20150594	G	Providence Equity Partners VI L.P.; Schoolwires, Inc.; Providence Equity Partners VI L.P.
20150608	G	Kevin A. Plank; MyFitnessPal, Inc.; Kevin A. Plank.
20150649	G	TA XI L.P.; Michael Miola; TA XI L.P.
20150654	G	The Pennsylvania State University; Catholic Health Initiatives; The Pennsylvania State University.
20150682	G	Arrow Electronics, Inc.; immixGroup, Inc.; Arrow Electronics, Inc.
03/13/2015		
20150684	G	Valeant Pharmaceuticals International, Inc.; Salix Pharmaceuticals, Ltd.; Valeant Pharmaceuticals International, Inc.
20150697	G	BDT Capital Partners Fund I AIV, L.P.; Marquette Transportation Company Holding; BDT Capital Partners Fund I AIV, L.P.
20150702	G	Michael J. Cantanucci; Wiesenthal Holding GmbH; Michael J. Cantanucci.
20150704	G	JLL Patheon Co-Investment Fund, L.P. (Cayman); IRIX Pharmaceuticals, Inc.; JLL Patheon Co-Investment Fund, L.P. (Cayman).
20150707	G	Todd L. Boehly; Eldridge Investors, LLC; Todd L. Boehly.
03/16/2015		
20150647	G	New Media Investment Group Inc.; SF Holding Corp.; New Media Investment Group Inc.
20150712	G	Berkshire Hathaway Inc.; The Procter & Gamble Company; Berkshire Hathaway Inc.
20150714	G	Stifel Financial Corp.; Sterne Agee Group, Inc.; Stifel Financial Corp.
03/17/2015		
20150674	G	Hanesbrands Inc.; Merit Mezzanine Fund V, L.P.; Hanesbrands Inc.
20150680	G	Merck & Co., Inc.; NGM Biopharmaceuticals, Inc.; Merck & Co., Inc.
20150708	G	Pacolet Milliken Enterprises, Inc.; Metalmark Capital Partners, L.P.; Pacolet Milliken Enterprises, Inc.
03/18/2015		
20150657	G	JANA Offshore Partners, Ltd.; Computer Sciences Corporation; JANA Offshore Partners, Ltd.
20150658	G	JANA Nirvana Offshore Fund, Ltd.; Computer Sciences Corporation; JANA Nirvana Offshore Fund, Ltd.
20150699	G	Deutsche Telekom AG; Verizon Communications Inc.; Deutsche Telekom AG.
20150700	G	Verizon Communications Inc.; Deutsche Telekom AG; Verizon Communications Inc.
20150710	G	Philip and Jocelyn Hagerman; BioRx, LLC; Philip and Jocelyn Hagerman.
20150715	G	Catamaran Corporation; Brazos Equity Fund II, L.P.; Catamaran Corporation.
20150716	G	Warburg Pincus Private Equity X O&G, L.P.; Laredo Petroleum, Inc.; Warburg Pincus Private Equity X O&G, L.P.
03/19/2015		
20150006	G	Waste Management Inc.; Deffenbaugh Disposal, Inc.; Waste Management Inc.
20150636	G	Hospira, Inc.; Pfenex Inc.; Hospira, Inc.
20150662	G	Lions Gate Entertainment Corp.; Starz; Lions Gate Entertainment Corp.
20150663	G	John C. Malone; Lions Gate Entertainment Corp.; John C. Malone.
20150709	G	Irving Place Capital Partners III, L.P.; Wicks Capital Partners IV, L.P.; Irving Place Capital Partners III, L.P.
03/20/2015		
20150701	G	Group 1 Automotive, Inc.; Irvin David Irrevocable Trust; Group 1 Automotive, Inc.
20150718	G	Visa Inc.; TrialPay, Inc.; Visa Inc.
20150719	G	Genstar Capital Partners VI, L.P.; Snow Phipps II, L.P.; Genstar Capital Partners VI, L.P.
20150720	G	Hebei Iron & Steel Group, Co. Ltd.; Bruno Bolfo; Hebei Iron & Steel Group, Co. Ltd.
20150723	G	Sudesh Arora; Affinity Acquisition Holdings Corp.; Sudesh Arora.
20150725	G	Sola Ltd, Charitable Trust; TerreStar Corporation; Sola Ltd, Charitable Trust.
20150744	G	Pershing Square Holdings, Ltd.; Valeant Pharmaceuticals International, Inc.; Pershing Square Holdings, Ltd.
20150745	G	Pershing Square, L.P.; Valeant Pharmaceuticals International, Inc.; Pershing Square, L.P.
20150746	G	Pershing Square International, Ltd.; Valeant Pharmaceuticals International, Inc.; Pershing Square International, Ltd.

EARLY TERMINATIONS GRANTED—Continued
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		03/23/2015
20150694	G	AXIS Capital Holdings Limited; PartnerRe Ltd.; AXIS Capital Holdings Limited.
20150695	G	PartnerRe Ltd.; AXIS Capital Holdings Limited; PartnerRe Ltd.
20150703	G	Science Applications International Corporation; Green Equity Investors V, L.P.; Science Applications International Corporation.
20150729	G	Rakuten, Inc.; Lyft, Inc.; Rakuten, Inc.
		03/24/2015
20150660	G	Greenhill & Co., Inc.; Cogent Partners, LP; Greenhill & Co., Inc.
20150693	G	Castlerigg International Limited; Brookdale Senior Living Inc.; Castlerigg International Limited.
20150735	G	Mitel Networks Corporation; Mavenir Systems, Inc.; Mitel Networks Corporation.
		03/25/2015
20150705	G	Senator Global Opportunity Offshore Fund Ltd.; Starwood Hotels & Resorts Worldwide, Inc.; Senator Global Opportunity Offshore Fund Ltd.
20150711	G	Trident VI, L.P.; Black Mountain Systems, LLC; Trident VI, L.P.
20150722	G	Concordia Healthcare Corp.; Cerberus Institutional Partners, L.P.; Concordia Healthcare Corp.
20150733	G	Ginsoma Family C.V.; Michael P. Maraist; Ginsoma Family C.V.
20150740	G	Recro Pharma, Inc.; Alkermes Public Limited Company; Recro Pharma, Inc.
20150751	G	Chier North Cliff Voting, LLC; Northern Frac Proppants II, LLC; Chier North Cliff Voting, LLC.
20150756	G	Hess North Cliff Voting, LLC; Northern Frac Proppants II, LLC; Hess North Cliff Voting, LLC.
		03/26/2015
20150678	G	GTT Communications, Inc.; Platinum Equity Capital Partners II, L.P.; GTT Communications, Inc.
		03/27/2015
20150667	G	Third Point Reinsurance Ltd.; FANUC Corporation; Third Point Reinsurance Ltd.
20150749	G	Redgate Partners, LLC; Danny R. Cuzick and Donna J. Cuzick; Redgate Partners, LLC.
20150755	G	Standard General Offshore Fund Ltd.; RadioShack Corporation; Standard General Offshore Fund Ltd.
20150763	G	Newco, a to be formed AIV; Bain Capital AM Holding, LLC; Newco, a to be formed AIV.
20150764	G	Howard Midstream Energy Partners, LLC; Southwestern Energy Company; Howard Midstream Energy Partners, LLC.
20150765	G	NextEra Energy, Inc.; Carlyle Power Opportunities Capital Partners, L.P.; NextEra Energy, Inc.
20150773	Y	Bain Capital Fund XI, L.P.; Project Barbour Holdings Corporation; Bain Capital Fund XI, L.P.
		03/30/2015
20150727	G	MAXIMUS, Inc.; Snow Phipps Group AIV, L.P.; MAXIMUS, Inc.
20150769	G	American Securities Partners VI, L.P.; Green Equity Investors V, L.P.; American Securities Partners VI, L.P.
20150770	G	A. Schulman, Inc.; HGGC Citadel, LLC; A. Schulman, Inc.
		03/31/2015
20150780	G	Capitol Acquisition Corp. II; Sven-Olof Lindblad; Capitol Acquisition Corp. II.
20150783	G	IFM Global Infrastructure Fund; Statewide Mobility Partners LLC; IFM Global Infrastructure Fund.
		04/02/2015
20150737	G	Verisk Analytics, Inc.; Hellman & Friedman Capital Partners VII, L.P.; Verisk Analytics, Inc.
20150779	G	Investor AB; The ROHO Group, Inc.; Investor AB.
20150786	G	Highland Funds II; TerreStar Corporation; Highland Funds II.
		04/06/2015
20150785	G	Fairfax Financial Holdings Limited; Brit plc; Fairfax Financial Holdings Limited.
20150788	G	PCCW Limited; Vuclip, Inc.; PCCW Limited.
20150794	G	LTF Holdings, Inc.; Life Time Fitness, Inc.; LTF Holdings, Inc.
20150801	G	Levy Acquisition Corp.; Del Taco Holdings, Inc.; Levy Acquisition Corp.
		04/07/2015
20150790	G	Iberdrola, S.A.; UIL Holdings Corporation; Iberdrola, S.A.
20150793	G	LLR Equity Partners IV, L.P.; Michele Logan; LLR Equity Partners IV, L.P.
20150806	G	Harvest Partners VI, L.P.; Cressey & Company Fund IV, LP; Harvest Partners VI, L.P.
		04/08/2015
20150761	G	Pernix Therapeutics Holdings, Inc.; Zogenix, Inc.; Pernix Therapeutics Holdings, Inc.
20150784	G	Alcoa Inc.; RTI International Metals, Inc.; Alcoa Inc.
20150791	G	Mylan N.V.; Jai Pharma Ltd.; Mylan N.V.

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		04/09/2015
20150797	G	ICG Europe Fund V Investor Feeder LP; Private Equity Holdings Fund LP; ICG Europe Fund V Investor Feeder LP.
		04/10/2015
20150565	G	Clean Harbors, Inc.; Nuverra Environmental Solutions, Inc.; Clean Harbors, Inc.
20150758	G	Sentinel Capital Partners V, L.P.; TZP Capital Partners I, L.P.; Sentinel Capital Partners V, L.P.
20150808	G	Boulder Valley Credit Union; Premier Members Federal Credit Union; Boulder Valley Credit Union.
20150819	G	Roark Capital Partners III, LP; Harvest Partners VI, L.P.; Roark Capital Partners III, LP.
20150822	G	Industrial Growth Partners IV, L.P.; Hang Up Moon, Trustee, Moon Family Trust; Industrial Growth Partners IV, L.P.
20150826	G	FUJIFILM Holdings Corporation; Cellular Dynamics International, Inc.; FUJIFILM Holdings Corporation.
		04/13/2015
20150613	G	CommScope Holding Company, Inc.; TE Connectivity Ltd.; CommScope Holding Company, Inc.
20150772	G	Rakuten, Inc.; Insight Venture Partners VI, L.P.; Rakuten, Inc.
20150781	G	Orange Capital Offshore I, Ltd.; American Capital, Ltd.; Orange Capital Offshore I, Ltd.
20150824	G	Marlin Equity IV, L.P.; General Dynamics Corporation; Marlin Equity IV, L.P.
20150829	G	CCP III AIV I, L.P.; Apollo Investment Fund VII, L.P.; CCP III AIV I, L.P.
		04/14/2015
20150807	G	Roark Capital Partners III LP; Charles E. West, Jr.; Roark Capital Partners III LP.
20150823	G	AIA Energy North America LLC; BAIF CSC AIV L.P.; AIA Energy North America LLC.
20150825	G	SunEdison, Inc.; Atlantic Power Corporation; SunEdison, Inc.
20150827	G	Rockland Power Partners II, LP; LS Power Equity Partners, L.P.; Rockland Power Partners II, LP.
		04/15/2015
20150609	G	Genstar Capital Partners VI, L.P.; PHT Corporation; Genstar Capital Partners VI, L.P.
20150838	G	IHS Inc.; Root Wireless, Inc. dba RootMetrics; IHS Inc.
		04/16/2015
20150739	G	Cardinal Health, Inc.; Johnson & Johnson; Cardinal Health, Inc.
20150759	G	Simon Bergson; Rodney Brayman; Simon Bergson.
20150760	G	Jeffrey A. Honickman; Rodney Brayman; Jeffrey A. Honickman.
20150816	G	Eli Lilly and Company; Hanmi Pharmaceutical Co., Ltd.; Eli Lilly and Company.
		04/20/2015
20150814	G	TowerBrook Investors IV (Onshore), L.P.; JJ Holding Company Limited; TowerBrook Investors IV (Onshore), L.P.
20150839	G	Platinum Equity Capital Partners III, L.P.; ITOCHU Corporation; Platinum Equity Capital Partners III, L.P.
20150841	G	Raymond F Schinazi; Cocrystal Pharma, Inc.; Raymond F Schinazi.
20150842	G	ChemicaInvest Holding B.V.; Royal DSM N.V.; ChemicaInvest Holding B.V.
20150853	G	UnitedHealth Group Incorporated; UCH Holdco LLC; UnitedHealth Group Incorporated.
20150856	G	Pattern Energy Group, Inc.; NTR plc; Pattern Energy Group, Inc.
20150857	G	Berkshire Fund VIII, L.P.; Trilantic Capital Partners IV, LP; Berkshire Fund VIII, L.P.
		04/21/2015
20150353	G	Janet M. Pasha; Horizon Lines, Inc.; Janet M. Pasha.
20150809	G	Hitachi, Ltd.; Finmeccanica S.p.A.; Hitachi, Ltd.
20150849	G	Genstar Capital Partners VI, L.P.; Lovell Minnick Equity Partners II LP; Genstar Capital Partners VI, L.P.
		04/22/2015
20150111	G	NetScout Systems, Inc.; Danaher Corporation; NetScout Systems, Inc.
20150811	G	RBC Bearings Incorporated; Dover Corporation; RBC Bearings Incorporated.
		04/23/2015
20150677	G	MABEG Verein zur Forderung und Beratung der MAHLE Gruppe eV; Delphi Automotive PLC; MABEG. Verein zur Forderung und Beratung der MAHLE Gruppe eV.
20150691	G	ICCN Holdings, LLC; Marlin Equity II, L.P.; ICCN Holdings, LLC.
		04/24/2015
20150855	G	Reid Garrett Hoffman; Lynda Weinman; Reid Garrett Hoffman.
20150861	G	ARRIS Group, Inc.; Mr. Leonard Lauder; ARRIS Group, Inc.
20150865	G	Fortune Brands Home & Security, Inc.; Norcraft Companies, Inc.; Fortune Brands Home & Security, Inc.
20150868	G	International Flavors & Fragrances Inc.; Henry H. Ottens Manufacturing Co., Inc.; International Flavors & Fragrances Inc.
20150873	G	SCP TPZ Holding, Inc.; VantagePoint CDP Partners, L.P.; SCP TPZ Holding, Inc.

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20150879	G	Comcast Corporation; Lorne Michaels; Comcast Corporation.
20150884	G	Brother Industries, Ltd.; Domino Printing Sciences plc; Brother Industries, Ltd.
20150885	G	New Mountain Partners IV, L.P.; Zep Inc.; New Mountain Partners IV, L.P.
20150891	G	Precision Castparts Corp.; Jeffrey M. Carlton Trust; Precision Castparts Corp.
20150892	G	Prophet Equity II LP; Mobile Mini, Inc.; Prophet Equity II LP.
20150895	G	Shamrock Capital Growth Fund III, L.P.; FanDuel Limited; Shamrock Capital Growth Fund III, L.P.
		04/27/2015
20150837	G	DH Corporation; GTCR Fund X/A LP; DH Corporation.
20150846	G	The Walt Disney Company; Shane Smith; The Walt Disney Company.
20150847	G	The Hearst Family Trust; Shane Smith; The Hearst Family Trust.
20150850	G	KKR North America Fund XI, L.P.; KKR Magellan Aggregator L.P.; KKR North America Fund XI, L.P.
20150851	G	Elliott International Limited; KKR Magellan Aggregator L.P.; Elliott International Limited.
20150875	G	OEP Secondary Fund Feeder (Cayman), L.P.; The Wendy's Company; OEP Secondary Fund Feeder (Cayman), L.P.
		04/28/2015
20150860	G	Comcast Corporation; InterMedia Partners VII, L.P.; Comcast Corporation.
20150882	G	Endurance Specialty Holdings Ltd.; Montpelier Re Holdings Ltd.; Endurance Specialty Holdings Ltd.
20150890	G	EQT Infrastructure II Limited Partnership; CHS Private Equity V LP; EQT Infrastructure II Limited Partnership.
		04/29/2015
20150866	G	ABRY Partners VIII, L.P.; Spark Acquisition Holdings, Inc.; ABRY Partners VIII, L.P.
20150906	G	Precision Castparts Corp.; Eric Albert; Precision Castparts Corp.
		05/04/2015
20141235	G	Holcim Ltd.; Lafarge S.A.; Holcim Ltd.
20150898	G	KKR & Co., L.P.; FanDuel Limited; KKR & Co., L.P.
20150899	G	ABRY Partners VIII, L.P.; Sentry Data Systems, Inc.; ABRY Partners VIII, L.P.
20150903	G	Delek US Holdings, Inc.; Alon USA Energy, Inc.; Delek US Holdings, Inc.
20150904	G	Shraga Biran; Delek US Holdings, Inc.; Shraga Biran.
20150910	G	WME Entertainment Parent, LLC; Spire Capital Partners II, LP; WME Entertainment Parent, LLC.
20150911	G	NetSuite Inc.; Joseph Colopy; NetSuite Inc.
20150915	G	Summit Partners Growth Equity Fund VIII–A, L.P.; Lightyear Fund III, L.P.; Summit Partners Growth Equity Fund VIII–A, L.P.
20150926	G	Kagome Co., Ltd.; ASG-Omni LLC; Kagome Co., Ltd.
		05/05/2015
20150028	Y	ZF Friedrichshafen AG; TRW Automotive Holdings Corp.; ZF Friedrichshafen AG.
20150880	G	Elliott Associates, L.P.; DMG MORI SEIKI AKTIENGESELLSCHAFT; Elliott Associates, L.P.
20150881	G	Elliott International Limited; DMG MORI SEIKI AKTIENGESELLSCHAFT; Elliott International Limited.
20150914	G	MasterCard Incorporated; APT Software Holdings, Inc.; MasterCard Incorporated.
20150916	G	Francisco Partners IV, L.P.; Procera Networks, Inc.; Francisco Partners IV, L.P.
		05/06/2015
20150871	G	Ahmet H. Okumus; LifeLock, Inc.; Ahmet H. Okumus.
20150912	G	Canada Pension Plan Investment Board; Informatica Corporation; Canada Pension Plan Investment Board.
		05/08/2015
20150886	G	The Williams Companies, Inc; Utica East Ohio Midstream LLC; The Williams Companies, Inc.
20150921	G	Temasek Holdings (Private) Limited; Trustwave Holdings, Inc.; Temasek Holdings (Private) Limited.
20150927	G	Audax Private Equity Fund IV, L.P.; Pfingsten Partners Fund IV, L.P.; Audax Private Equity Fund IV, L.P.
20150928	G	The Baring Asia Private Equity Fund IV, L.P.; Sterling International Schools C Corporation; The Baring Asia Private Equity Fund IV, L.P.
20150930	G	The Dun & Bradstreet Corporation; Great Hill Equity Partners IV, L.P.; The Dun & Bradstreet Corporation.
20150931	G	Colonial Pipeline Company; Royal Dutch Shell plc; Colonial Pipeline Company.
20150935	G	HRG Group, Inc.; Avista Capital Partners II, L.P.; HRG Group, Inc.
20150937	G	Frontier Communications Corporation; Verizon Communications Inc.; Frontier Communications Corporation.
20150938	G	Antony Ressler; LPF Atlanta LLC; Antony Ressler.
20150939	G	Arlon Food and Agriculture Partners LP; MSouth Equity Partners, L.P.; Arlon Food and Agriculture Partners LP.
20150941	G	Lindsay Goldberg III L.P.; Bruce Kovner; Lindsay Goldberg III L.P.
20150948	G	Sterling Investment Partners III, L.P.; Arvin Scott; Sterling Investment Partners III, L.P.
20150951	G	Francisco Partners IV, L.P.; Insight Venture Partners VI, L.P.; Francisco Partners IV, L.P.
20150953	G	Andreessen Horowitz Parallel Fund III, L.P.; YourPeople, Inc. d/b/a Zenefits; Andreessen Horowitz Parallel Fund III, L.P.
20150954	G	TransDigm Group Incorporated; Odyssey Investment Partners Fund IV, LP; TransDigm Group Incorporated.
20150959	G	Franz Haniel & Cie GmbH; Go Acquisition B.V.; Franz Haniel & Cie GmbH.
20150960	G	TPG VII CDS Holdings, LP; Guy Laliberte; TPG VII CDS Holdings, LP.

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05/11/2015		
20150901	G	Builders FirstSource, Inc.; FMR LLC; Builders FirstSource, Inc.
20150942	G	XPO Logistics, Inc.; Norbert Dentressangle; XPO Logistics, Inc.
20150952	G	American Securities Partners VI, L.P.; ACP Materials LLC; American Securities Partners VI, L.P.
20150965	G	Vestar Capital Partners VI, L.P.; Woodstream Group, Inc.; Vestar Capital Partners VI, L.P.
20150966	G	The Resolute Fund III, L.P.; Charles Lipman; The Resolute Fund III, L.P.
05/13/2015		
20150934	G	Eli Lilly and Company; Bristol-Myers Squibb Company; Eli Lilly and Company.
20150950	G	South Dakota Wheat Growers Association; North Central Farmers Elevator; South Dakota Wheat Growers Association.
20150964	G	Riverside Capital Appreciation Fund VI, L.P.; DW Healthcare Partners III, L.P.; Riverside Capital Appreciation Fund VI, L.P.
05/14/2015		
20150956	G	Neil D. Cohen; Hewlett-Packard Company; Neil D. Cohen.
05/18/2015		
20150940	G	Robert H. Chapman; Kirk J. Eberl; Robert H. Chapman.
20150963	G	GSC Target SPV, L.P.; Koninklijke Philips N.V.; GSC Target SPV, L.P.
20150967	G	Echo Global Logistics, Inc.; Jodi Sue Loeb Family Trust u/a/d October 28, 1999; Echo Global Logistics, Inc.
20150968	G	Penn National Gaming, Inc.; Onex Partners III Gaming Holdings I LP; Penn National Gaming, Inc.
20150970	G	Platte River Equity III, L.P.; Mid Oaks Investments LLC; Platte River Equity III, L.P.
20150975	G	Henry A. Fernandez; MSCI Inc.; Henry A. Fernandez.
20150976	G	JLL Partners Fund VII, L.P.; Sun Capital Partners V, L.P.; JLL Partners Fund VII, L.P.
20150977	G	Infosys Limited; Arish Ali and Sudha K. Varadarajan; Infosys Limited.
20150979	G	XPO Logistics, Inc.; Platinum Equity Capital Partners II; XPO Logistics, Inc.
20150990	G	Pitney Bowes Inc.; Borderfree, Inc.; Pitney Bowes Inc.
05/19/2015		
20150798	G	Select Medical Corporation; Humana Inc.; Select Medical Corporation.
20150913	G	Houghton Mifflin Harcourt Company; Scholastic Corporation; Houghton Mifflin Harcourt Company.
20150978	G	ABRY Partners VIII, L.P.; The Hilb Group, LLC; ABRY Partners VIII, L.P.
20150985	G	KKR North America Fund XI, L.P.; Robert A. Roberts; KKR North America Fund XI, L.P.
20150988	G	The Goldman Sachs Group, Inc,.; Sterling Holdings Ultimate Parent, Inc.; The Goldman Sachs Group, Inc,.
05/20/2015		
20150917	G	Raytheon Company; Vista Equity Partners Fund IV, L.P.; Raytheon Company.
20150961	G	Robert Kraft; Forest Resources LLC; Robert Kraft.
20150962	G	Schwarz Partners, L.P.; Forest Resources LLC; Schwarz Partners, L.P.
20150971	G	Josh McFarland; Twitter, Inc.; Josh McFarland.
20150972	G	Twitter, Inc.; TellApart, Inc.; Twitter, Inc.
05/21/2015		
20150659	G	Harris Corporation; Exelis Inc.; Harris Corporation.
20150973	G	Dr. Thomas P. Lyons; Fairfax Financial Holdings Limited; Dr. Thomas P. Lyons.
20150974	G	ABRY Partners VII, L.P.; SeaMobile, Inc.; ABRY Partners VII, L.P.
05/26/2015		
20150980	G	New Enterprise Associates 14, L.P.; MuleSoft, Inc.; New Enterprise Associates 14, L.P.
20150986	G	KapStone Paper and Packaging Corporation; VP Holdco, Inc.; KapStone Paper and Packaging Corporation.
20150987	G	Boulevard Acquisition Corp.; The Dow Chemical Company; Boulevard Acquisition Corp.
20150994	G	Red Ventures Holdco, LP; Pitney Bowes, Inc.; Red Ventures Holdco, LP.
20150995	G	YOOX S.p.A.; Compagnie Financiere Richemont S.A.; YOOX S.p.A.
20150996	G	Tencent Holdings Limited; Glu Mobile Inc.; Tencent Holdings Limited.
20150999	G	Wells Fargo & Company; RPWL Holdings, LLC; Wells Fargo & Company.
20151004	G	PEG Digital Growth Fund L.P.; AliphCom, Inc.; PEG Digital Growth Fund L.P.
20151005	G	On Assignment, Inc.; MSCP V CC Holdco LLC; On Assignment, Inc.
20151010	G	Elliott Associates, L.P.; CDK Global, Inc.; Elliott Associates, L.P.
20151011	G	Elliott International Limited; CDK Global, Inc.; Elliott International Limited.
20151012	G	Littlejohn Fund V, L.P.; Apollo Investment Corporation; Littlejohn Fund V, L.P.
20151013	G	IMCD N.V.; John L. Mastrantoni; IMCD N.V.
20151021	G	Riverside Capital Appreciation Fund VI, L.P.; Blue Point Capital Partners II, L.P.; Riverside Capital Appreciation Fund VI, L.P.
20151022	G	Seagull Investment Holdings Limited; OmniVision Technologies, Inc.; Seagull Investment Holdings Limited.
20151024	G	NGK Spark Plug Co., Ltd.; Graeme R. Hart; NGK Spark Plug Co., Ltd.

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		05/27/2015
20150983	G	Cap Gemini S.A.; iGATE Corporation; Cap Gemini S.A.
20150984	G	Waud Capital Partners QP III, L.P.; Sean P. and Karen L. Flanagan; Waud Capital Partners QP III, L.P.
		05/28/2015
20150862	G	Quintiles Transnational Holdings Inc.; Newco US; Quintiles Transnational Holdings Inc.
20150991	G	Emerson Electric Co.; Oaktree Power Opportunities Fund III, L.P.; Emerson Electric Co.
		05/29/2015
20151027	G	Alexion Pharmaceuticals, Inc.; Synageva Biopharma Corp.; Alexion Pharmaceuticals, Inc.
20151038	G	667, L.P.; Alexion Pharmaceuticals, Inc.; 667, L.P.
20151039	G	Baker Brothers Life Sciences, L.P.; Alexion Pharmaceuticals, Inc.; Baker Brothers Life Sciences, L.P.
		06/01/2015
20151029	G	Pan-American Life Mutual Holding Company; Mutual Trust Holding Company; Pan-American Life Mutual Holding Company.
20151040	G	Apollo Investment Fund VIII, L.P.; GTCR Fund IX/A, L.P.; Apollo Investment Fund VIII, L.P.
20151042	G	Apollo Investment Fund VIII, L.P.; Parthenon Investors III, L.P.; Apollo Investment Fund VIII, L.P.
20151044	G	ABRY Partners VIII, L.P.; Comvest Investment Partners IV, L.P.; ABRY Partners VIII, L.P.
20151046	G	Japan Tobacco Inc.; Howard Panes; Japan Tobacco Inc.
20151047	G	Japan Tobacco Inc.; Eli Alelov; Japan Tobacco Inc.
20151048	G	Gruden Acquisition, Inc.; Quality Distribution, Inc.; Gruden Acquisition, Inc.
20151050	G	BCP IV GrafTech Holdings LP; GrafTech International Ltd.; BCP IV GrafTech Holdings LP.
20151052	G	Carl C. Icahn; Lyft, Inc.; Carl C. Icahn.
20151053	G	ALLETE, Inc.; Citigroup Inc.; ALLETE, Inc.
20151054	G	ALLETE, Inc.; The AES Corporation; ALLETE, Inc.
		06/02/2015
20150997	G	Graham Holdings Company; Scott C. Barry; Graham Holdings Company.
20150998	G	Graham Holdings Company; Christopher Wilcox; Graham Holdings Company.
20151002	G	TCV VIII, L.P.; OneSource Virtual HR, Inc.; TCV VIII, L.P.
20151055	G	Fiskars Corporation; WWRD Group Holdings Limited; Fiskars Corporation.
20151059	G	Temasek Capital (Private) Limited; Ulysses Participation S.a.r.l.; Temasek Capital (Private) Limited.
20151064	G	Noble Energy Inc.; Rosetta Resources Inc.; Noble Energy Inc.
		06/03/2015
20151069	G	Douglas R. Fabick; Jere C. Fabick; Douglas R. Fabick.
		06/04/2015
20151018	G	AstraZeneca PLC; Innate Pharma S.A.; AstraZeneca PLC.
20151025	G	Bayer AG; Isis Pharmaceuticals, Inc.; Bayer AG.
20151036	G	Milestone Acquisition Holding, LLC; US Trailer Holdings, LLC; Milestone Acquisition Holding, LLC.
		06/05/2015
20151056	G	Howard R. Levine; Dollar Tree, Inc.; Howard R. Levine.
20151065	G	Oceana Group Limited; Gregory F Holt.; Oceana Group Limited.
20151068	G	Hyundai Steel Co., Ltd.; Hyundai Hysco Co., Ltd.; Hyundai Steel Co., Ltd.
20151071	G	Verizon Communications Inc.; AOL Inc.; Verizon Communications Inc.
20151080	G	CA Inc.; Rally Software Development Corp.; CA Inc.
20151083	G	Tailwind Capital Group; Arnold Fishman; Tailwind Capital Group.
20151089	G	Kaba Holding AG; Christine Mankel; Kaba Holding AG.
20151090	G	Kaba Holding AG; Stephanie Brecht-Bergen; Kaba Holding AG.
20151093	G	McGraw Hill Financial, Inc.; National Automobile Dealers Association; McGraw Hill Financial, Inc.
20151094	G	Silver Lake Partners IV Cayman (AIV II), L.P.; Avago Technologies Limited; Silver Lake Partners IV Cayman (AIV II), L.P.
20151095	G	Colfax Corporation; General Electric Company; Colfax Corporation.
20151101	G	GUO GUANGCHANG; Ironshore Inc.; GUO GUANGCHANG.
		06/08/2015
20151081	G	Apollo Investment Fund VIII, L.P.; CH2M Hill Companies, Ltd.; Apollo Investment Fund VIII, L.P.
		06/09/2015
20151070	G	Royal Bank of Canada; City National Corporation; Royal Bank of Canada.
20151079	G	Madison Dearborn Capital Partners VI–B, L.P.; Mathew J. Hill; Madison Dearborn Capital Partners VI–B, L.P.

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		06/11/2015
20151033	G	CECO Environmental Corp.; PMFG, Inc.; CECO Environmental Corp.
20151049	G	The Veritas Capital Fund IV, L.P.; Riverside Capital Appreciation Fund V, L.P.; The Veritas Capital Fund IV, L.P.
20151067	G	Constellation Software Inc.; UnitedHealth Group Incorporated; Constellation Software Inc.
		06/12/2015
20151099	G	Members Cooperative Credit Union; Lake State Credit Union; Members Cooperative Credit Union.
20151100	G	Thoma Bravo Fund XI, L.P.; Thoma Cressey Fund VIII, L.P.; Thoma Bravo Fund XI, L.P.
20151103	G	ABRY Partners VII, L.P.; ACP Investment Fund II–A, L.P.; ABRY Partners VII, L.P.
20151104	G	DTZ Investment Holdings LP; Giovanni Agnelli e C.S. a.p.az.; DTZ Investment Holdings LP.
20151109	G	ABRY Partners VII, LP; Affirmative Insurance Holdings, Inc.; ABRY Partners VII, LP.
20151110	G	VCSA Holding Corp.; Dubai Aerospace Enterprise (DAE) Ltd.; VCSA Holding Corp.
20151111	G	Andrade Gutierrez S.A.; Thomas P. Dennis, Jr.; Andrade Gutierrez S.A.
20151113	G	Charlesbank Equity Fund VIII, Limited Partnership; Acxiom Corporation; Charlesbank Equity Fund VIII, Limited Partnership.
20151116	G	China National Chemical Corporation; Pirelli & C. S.p.A; China National Chemical Corporation.
20151117	G	General Atlantic Partners 93, L.P.; Weston Presidio V, L.P.; General Atlantic Partners 93, L.P.
20151118	G	Audax Private Equity Fund IV, LP; Cortec Group Fund IV, L.P.; Audax Private Equity Fund IV, LP.
20151122	G	USAGM Topco, LLC; Partners Group Universal, LLC; USAGM Topco, LLC.
20151138	G	GameStop Corp.; Geeknet, Inc.; GameStop Corp.
		06/13/2015
20151119	G	Arsenal Capital Partners III, LP; R. Richard Sargent; Arsenal Capital Partners III, LP.
		06/15/2015
20151031	G	Ciena Corporation; Cyan, Inc.; Ciena Corporation.
20151121	G	Royal Dutch Shell plc; BG Group plc; Royal Dutch Shell plc.
20151123	G	Parthenon Investors IV, L.P.; Sean S. Smith; Parthenon Investors IV, L.P.
20151126	G	Capmark Financial Group Inc.; Orchard Brands Corporation; Capmark Financial Group Inc.
		06/16/2015
20151032	G	Nokia Corporation; Alcatel Lucent; Nokia Corporation.
20151037	G	Trinity Health Corporation; Partners in Franciscan Ministries, Inc.; Trinity Health Corporation.
20151102	G	Francisco Partners IV, L.P.; ShoreGroup, Inc.; Francisco Partners IV, L.P.
20151124	G	USAGM Topco, LLC; Ira A. Lipman; USAGM Topco, LLC.
20151125	G	Ferrellgas Partners, L.P.; Riverstone Global Energy and Power Fund V (FT), L.P.; Ferrellgas Partners, L.P.
		06/17/2015
20151085	G	Ascena Retail Group, Inc.; ANN Inc.; Ascena Retail Group, Inc.
20151130	G	Genstar Capital Partners VI, L.P.; Great Hill Equity Partners IV, LP; Genstar Capital Partners VI, L.P.
20151131	G	Burgundy Topco, Inc.; Andrew Ballester; Burgundy Topco, Inc.
20151132	G	Burgundy Topco, Inc.; Brad Damphousse; Burgundy Topco, Inc.
		06/18/2015
20151045	G	Crown Castle International Corp.; Quanta Services, Inc.; Crown Castle International Corp.
		06/19/2015
20150618	G	SS&C Technologies Holdings, Inc.; Advent Software, Inc.; SS&C Technologies Holdings, Inc.
20151074	G	Meijer Companies, Ltd.; BellHealth Investment Fund, L.P.; Meijer Companies, Ltd.
20151097	G	H.I.G. Capital Partners V, L.P.; inome, Inc.; H.I.G. Capital Partners V, L.P.
20151133	G	Francisco Partners IV, L.P.; ClickSoftware Technologies Ltd.; Francisco Partners IV, L.P.
20151134	G	AMETEK, Inc.; Cognex Corporation; AMETEK, Inc.
20151136	G	Big Jack Ultimate Holdings LP; Jacks Family Restaurants, Inc.; Big Jack Ultimate Holdings LP.
20151146	G	Patrick Drahi; Cequel Corporation; Patrick Drahi.
20151147	G	Permira V L.P. 2; Zeke Alenick; Permira V L.P. 2.
20151149	G	Quest Credit Union; Educational Credit Union; Quest Credit Union.
20151152	G	Apollo Investment Fund VIII, L.P.; OM Group, Inc.; Apollo Investment Fund VIII, L.P.
20151155	G	GIP II Blue Holding Partnership, L.P.; Hess Corporation; GIP II Blue Holding Partnership, L.P.
20151156	G	Cardinal Health, Inc.; Court Square Capital Partners II, L.P.; Cardinal Health, Inc.
20151162	G	Steel Partners Holdings, L.P.; JPS Industries, Inc.; Steel Partners Holdings, L.P.
		06/22/2015
20151127	G	AmTrust Financial Services, Inc.; Wells Fargo & Co.; AmTrust Financial Services, Inc.
20151161	G	Altura Credit Union; Visterra Credit Union; Altura Credit Union.

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20151167	G	Filtration Group Equity LLC; AB SKF; Filtration Group Equity LLC.
		06/23/2015
20141024	S	Zimmer Holdings, Inc.; LVB Acquisition Holding, LLC; Zimmer Holdings, Inc.
20151073	G	Danaher Corporation; Pall Corporation; Danaher Corporation.
20151128	G	Energy Trading Innovations LLC; Morgan Stanley; Energy Trading Innovations LLC.
20151159	G	General Atlantic Partners AIV–1 B, L.P.; EN Engineering Holdings, LLC; General Atlantic Partners AIV–1 B, L.P.
20151163	G	H&F Wand AIV I, L.P.; KAB Holding Company, LLC; H&F Wand AIV I, L.P.
20151165	G	Comcast Corporation; FanDuel Ltd.; Comcast Corporation.
		06/24/2015
20151143	G	Sisters of Charity Health Systems, Inc.; Brighton Community Hospital Association; Sisters of Charity Health Systems, Inc.
		06/25/2015
20150936	G	New Mountain Partners IV, L.P.; IOD Incorporated; New Mountain Partners IV, L.P.
20151154	G	Stock Building Supply Holdings, Inc.; Building Materials Holding Corporation; Stock Building Supply Holdings, Inc.
20151166	G	The 2015 Bethel Family Dynasty Trust; Land O'Lakes, Inc.; The 2015 Bethel Family Dynasty Trust.
		06/26/2015
20151115	G	Johnson & Johnson; Achillion Pharmaceuticals, Inc.; Johnson & Johnson.
20151150	G	Platform Specialty Products Corporation; OM Group, Inc.; Platform Specialty Products Corporation.
20151160	G	Insight Venture Partners VII, L.P.; Udemy, Inc.; Insight Venture Partners VII, L.P.
20151173	G	Onex Partners IV LP ("OP IV"); William C. Schumacher, M.D.; Onex Partners IV LP ("OP IV").
20151174	G	Vista Equity Partners Fund V, L.P.; EagleView Technology Corporation; Vista Equity Partners Fund V, L.P.
20151175	G	Cardtronics, Inc.; Joseph C. Canizaro; Cardtronics, Inc.
20151184	G	ABRY Senior Equity IV, L.P.; Refresh Dental Holdings, LLC; ABRY Senior Equity IV, L.P.
20151187	G	Aisin Seiki Co., Ltd.; Shiroki Corporation ("Shiroki"); Aisin Seiki Co., Ltd.
		06/29/2015
20150955	G	LTS Group Holdings LLC; Fibertech Holdings Corp; LTS Group Holdings LLC.
20151179	G	Newmont Mining Corporation; AngloGold Ashanti Limited; Newmont Mining Corporation.
20151208	G	Terry Taylor; Theodore W. Russell; Terry Taylor.
		06/30/2015
20151158	G	RoundTable Healthcare Partners III, L.P.; J.H. Whitney VII, L.P.; RoundTable Healthcare Partners III, L.P.
20151188	G	John Bragg; Salvatore Calvino; John Bragg.
20151191	G	American Water Works Company, Inc.; Rex Energy Corporation; American Water Works Company, Inc.
20151198	G	OCP Trust; KAG Holding Corp.; OCP Trust.
20151205	G	Duke Energy Corporation; Sumitomo Corporation; Duke Energy Corporation.
		07/01/2015
20151192	G	OPKO Health, Inc.; Bio-Reference Laboratories, Inc.; OPKO Health, Inc.
20151193	G	Marc D. Grodman M.D.; OPKO Health, Inc.; Marc D. Grodman M.D.
20151194	G	Nordic Capital VII Beta, L.P.; Apollo HoldCo S.a.r.l.; Nordic Capital VII Beta, L.P.
20151204	G	SoftBank Corp.; Social Finance, Inc.; SoftBank Corp.
		07/02/2015
20151199	G	The WhiteWave Foods Company; Charles Chang; The WhiteWave Foods Company.
		07/06/2015
20151207	G	Cheil Industries, Inc.; Samsung C & T Corporation; Cheil Industries, Inc.
20151213	G	SK C&C Co., Ltd.; SK Holdings Co., Ltd.; SK C&C Co., Ltd.
20151221	G	PBF Energy Inc.; Exxon Mobil Oil Corporation; PBF Energy Inc. 20151222 G PBF Energy Inc.; Petroleos de Venezuela S.A.; PBF Energy Inc.
20151228	G	Community Health Systems, Inc.; Metropolitan Health Corporation; Community Health Systems, Inc.
		07/07/2015
20151234	G	KKR North America Fund XI, L.P.; Friedman Fleischer & Lowe Capital Parnters III, L.P.; KKR North America Fund XI, L.P.
		07/08/2015
20151217	G	3M Company; KKR 2006 Fund (Overseas), Limited Partnership; 3M Company.
20151225	G	Hill-Rom Holdings, Inc.; Welch Allyn Holdings, Inc.; Hill-Rom Holdings, Inc.
20151229	G	JunHyuk Bang; SGN Games, Inc.; JunHyuk Bang.

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07/10/2015		
20151164	G	Pamlico Capital III, L.P.; Michael C. McCullough; Pamlico Capital III, L.P.
20151196	G	JANA Offshore Partners, Ltd.; ConAgra Foods, Inc.; JANA Offshore Partners, Ltd.
20151197	G	JANA Nirvana Offshore Fund, Ltd.; ConAgra Foods, Inc.; JANA Nirvana Offshore Fund, Ltd.
20151201	G	OCP Trust; ERM Worldwide Limited; OCP Trust.
20151202	G	Todd L. Boehly; Guggenheim Capital, LLC; Todd L. Boehly.
20151239	G	Mr. Florian Rehm; Sidney Frank Importing Company, Inc; Mr. Florian Rehm.
20151240	G	Wayne Buyer Parent, L.P.; KKR North America Fund XI, L.P.; Wayne Buyer Parent, L.P.
20151242	G	Sun Life Financial Inc.; Bentall Kennedy (U.S.) Limited Partnership; Sun Life Financial Inc.
20151251	G	Arctic Slope Regional Corporation; Royce G. Roberts; Arctic Slope Regional Corporation.
20151253	G	ProSiebenSat. 1 Media AG; GF Capital Private Equity Fund, LP; ProSiebenSat. 1 Media AG.
20151255	G	NOW Inc.; Sondra Eoff; NOW Inc.
20151256	G	Constellation Brands, Inc.; Copper Cane, LLC; Constellation Brands, Inc.
20151257	G	Twenty-First Century Fox, Inc.; DraftKings, Inc.; Twenty-First Century Fox, Inc.
20151258	G	Legrand S.A.; Raritan, Inc.; Legrand S.A.
20151266	G	AMAG Pharmaceuticals, Inc.; GTCR Fund X/A LP; AMAG Pharmaceuticals, Inc.
20151267	G	LetterOne Holdings S.A.; Altaris Health Partners II, L.P.; LetterOne Holdings S.A.
07/13/2015		
20151177	G	Elliott Associates, L.P.; Citrix Systems, Inc.; Elliott Associates, L.P.
20151178	G	Elliott International Limited; Citrix Systems, Inc.; Elliott International Limited.
20151209	G	Baxalta Incorporated; Sigma-Tau Finanziaria, S.p.A.; Baxalta Incorporated.
07/14/2015		
20151260	G	Vista Equity Partners Fund V, L.P.; Michael Donovan; Vista Equity Partners Fund V, L.P.
20151271	G	SLP IV Castle Feeder I, L.P.; Centerstage Investments, L.L.C.; SLP IV Castle Feeder I, L.P.
07/15/2015		
20150361	G	Joseph M. & Marie H. Field; Lincoln National Corporation; Joseph M. & Marie H. Field
20151077	G	International Consolidated Airlines Group, S.A.; Aer Lingus Group plc; International Consolidated Airlines Group, S.A.
20151236	G	Welsh, Carson, Anderson & Stowe X, L.P.; Control Group Ventures, LLC; Welsh, Carson, Anderson & Stowe X, L.P.
20151237	G	Control Group Ventures, LLC; Welsh, Carson, Anderson & Stowe X, L.P.; Control Group Ventures, LLC.
20151270	G	Darren Soerodimoeljo Soetantyo; Paine & Partners Capital Fund III AIV, L.P.; Darren Soerodimoeljo Soetantyo.
07/16/2015		
20151273	G	Stifel Financial Corp.; Barclays PLC; Stifel Financial Corp.
07/17/2015		
20151285	G	XIO Fund I LP; Lumenis Ltd.; XIO Fund I LP.
20151287	G	Legacy Reserves LP; Anadarko Petroleum Corporation; Legacy Reserves LP.
20151288	G	Martha Stewart; Sequential Brands Group, Inc.; Martha Stewart.
20151289	G	Sequential Brands Group, Inc.; Martha Stewart; Sequential Brands Group, Inc.
20151290	G	Charlesbank Equity Fund VII, Limited Partnership; CIC III LP; Charlesbank Equity Fund VII, Limited Partnership.
20151291	G	West First Management Corp.; Somerset Tire Service, Inc.; West First Management Corp.
20151294	G	PWP Growth Equity Fund I LP; WWS Acquisition, LLC; PWP Growth Equity Fund I LP.
20151305	G	Partners Group Client Access 13 L.P.; KUE U.S. LLC; Partners Group Client Access 13 L.P.
07/20/2015		
20151211	G	Vista Equity Partners Fund V, L.P.; Pearson plc; Vista Equity Partners Fund V, L.P.
20151295	G	Madison Dearborn Capital Partners VII–A, L.P.; Patterson Companies, Inc.; Madison Dearborn Capital Partners VII–A, L.P.
20151312	G	Golden Gate Capital Opportunity Fund, L.P.; Greenbriar Equity Fund II, L.P.; Golden Gate Capital Opportunity Fund, L.P.
07/21/2015		
20151252	G	Alliance Resource Partners, L.P.; Mr. Christopher James; Alliance Resource Partners, L.P.
20151259	G	Unilever N.V.; Raymond L. and Jane D. Wurmand; Unilever N.V.
20151262	G	Novartis AG; Spinifex Pharmaceuticals, Inc.; Novartis AG 20151265 G Unilever N.V.; Wurwand Family Income Trust; Unilever N.V.
20151296	G	Element Financial Corporation; General Electric Co.; Element Financial Corporation.
20151301	G	FourPoint Holdings, LLC; Chesapeake Energy Corporation; FourPoint Holdings, LLC.
20151303	G	EGI–AM Investments, L.L.C.; Welsh, Carson, Anderson & Stowe IX, L.P.; EGI–AM Investments, L.L.C.
20151311	G	New Enterprise Associates 13, Limited Partnership; Blue Jeans Network, Inc.; New Enterprise Associates 13, Limited Partnership.
20151314	G	Unilever N.V.; Howard Murad; Unilever N.V.
20151315	G	Apax VIII–B, L.P.; Hestia B.V.; Apax VIII–B, L.P.

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		07/23/2015
20151283	G	KRIM Biopharma Inc.; GlaxoSmithKline plc; KRIM Biopharma Inc.
20151298	G	American United Mutual Insurance Holding Company; Bank of Montreal (Canada); American United Mutual Insurance Holding Company.
		07/24/2015
20151280	G	Allergan Plc; KYTHERA Biopharmaceuticals, Inc.; Allergan Plc.
20151306	G	Tulig LLC; Behrman PEP L.P.; Tulig LLC.
20151319	G	Adolf Wurth GmbH & Co. KG; Salvatore A. Longo; Adolf Wurth GmbH & Co. KG.
20151321	G	Wendel SA; Blackstone RGIS Capital Partners V L.P.; Wendel SA.
20151323	G	CHS Inc.; PICO Holdings, Inc.; CHS Inc.
20151326	G	Centerbridge Capital Partners III, L.P.; KCP Investment Holdings L.P.; Centerbridge Capital Partners III, L.P.
20151329	G	Precision Castparts Corp.; AIPCF V AIV A LP; Precision Castparts Corp.
20151342	G	WPX Energy, Inc.; RKI Exploration & Production, LLC; WPX Energy, Inc.
20151344	G	ALJ Regional Holdings Inc.; Visant Holding Corp.; ALJ Regional Holdings Inc.
		07/27/2015
20151313	G	Land O' Lakes, Inc; United Suppliers, Inc.; Land O' Lakes, Inc.
20151316	G	HLS Therapeutics Inc.; Novartis AG; HLS Therapeutics Inc.
20151348	G	PPG Industries, Inc.; Michael S. McCracken; PPG Industries, Inc.
		07/28/2015
20151269	G	Boston Scientific Corporation; Endo International plc; Boston Scientific Corporation.
20151308	G	Independence Health Group, Inc.; Prestige Health Choice LLC; Independence Health Group, Inc.
20151310	G	GuideWell Mutual Holding Corporation; Prestige Health Choice LLC; GuideWell Mutual Holding Corporation.
20151338	G	Amadeus IT Holding, S.A.; Accenture plc; Amadeus IT Holding, S.A.
20151339	G	Deutsche Telekom AG; Verizon Communications Inc.; Deutsche Telekom AG.
20151340	G	Verizon Communications; Deutsche Telekom AG; Verizon Communications.
		07/30/2015
20151317	G	Jarden Corporation; Olympus Growth Fund V, L.P.; Jarden Corporation.
20151360	G	Medtronic Public Limited Company; RF Surgical Systems, Inc.; Medtronic Public Limited Company.
		07/31/2015
20151279	G	Adage Capital Partners, L.P.; Advaxis, Inc.; Adage Capital Partners, L.P.
20151297	G	Celgene Corporation; Juno Therapeutics, Inc.; Celgene Corporation.
20151335	G	iPipeline Holdings, Inc.; iPipeline, Inc.; iPipeline Holdings, Inc.
20151336	G	Tokio Marine Holdings, Inc.; HCC Insurance Holdings, Inc.; Tokio Marine Holdings, Inc.
20151345	G	Allergan Plc; Oculeve, Inc.; Allergan Plc.
20151347	G	Intel Corporation; Mirantis, Inc.; Intel Corporation.
20151355	G	Navitas Midstream Partners, LLC; Phillips 66; Navitas Midstream Partners, LLC.
20151356	G	Navitas Midstream Partners, LLC; Spectra Energy Corp.; Navitas Midstream Partners, LLC.
		08/04/2015
20151307	G	Blackstone Capital Partners VI L.P.; Parthenon Investors III, L.P (''Parthenon III''); Blackstone Capital Partners VI L.P.
20151357	G	Fibemi NV; Adam B. Firestone; Fibemi NV.
20151358	G	McCormick & Company, Incorporated; One World Foods, Inc.; McCormick & Company, Incorporated.
20151362	G	Waud Capital Partners QP III, L.P.; Joel H. Sharenow; Waud Capital Partners QP III, L.P.
20151363	G	Waud Capital Partners QP III, L.P.; Melvin Feiler; Waud Capital Partners QP III, L.P.
20151364	G	Lincoln Topco PTE Limited; Friedrich von Metzler; Lincoln Topco PTE Limited.
20151370	G	Lincoln Topco PTE Limited; Porsche Automobil Holding SE; Lincoln Topco PTE Limited.
20151371	G	SunCoke Energy, Inc.; Mr. Christopher Cline; SunCoke Energy, Inc.
20151372	G	Anixter International Inc.; HD Supply Holdings, Inc.; Anixter International Inc.
		08/05/2015
20151327	G	CA, Inc.; ArrowPath Fund II LP; CA, Inc.
		08/07/2015
20151203	G	HealthSouth Corporation; Nautic Partners VI, L.P.; HealthSouth Corporation.
20151330	G	Alert Holding Company, Inc.; Wells Fargo & Company; Alert Holding Company, Inc.
20151377	G	Kainos Capital Partners, L.P.; Arlon Food and Agriculture Partners LP; Kainos Capital Partners, L.P.
20151378	G	Nestle S. A.; SPC Partners IV, L.P.; Nestle S. A.
20151380	G	BlackBerry Limited; AtHoc Inc.; BlackBerry Limited.
20151382	G	Autoliv, Inc.; M/A–COM Technology Solutions Holdings, Inc.; Autoliv, Inc.
20151383	G	The Home Depot, Inc.; Interline Brands, Inc.; The Home Depot, Inc.

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20151384	G	Medical Properties Trust, Inc.; GTCR Fund VIII, L.P.; Medical Properties Trust, Inc.
20151387	G	Welsh Carson Anderson & Stowe XII, L.P.; Emerus Hospital Partners, LLC; Welsh Carson Anderson & Stowe XII, L.P.
20151391	G	Kelso Hammer Co-Investment, L.P.; BlackEagle Partners Fund, L.P.; Kelso Hammer Co-Investment, L.P.
20151396	G	Sterling Investment Partners III, L.P.; Snowman Holdings, LLC; Sterling Investment Partners III, L.P.
20151397	G	Turgay Ciner; OCI Company Ltd. (“OCI Korea”); Turgay Ciner.
20151398	G	First Financial Bancorp.; AG Private Equity Partners IV, L.P.; First Financial Bancorp.
20151399	Y	ABRY Partners VIII, L.P.; 1A Smart Start, Inc.; ABRY Partners VIII, L.P.
20151401	G	Dolphin Holdco, L.P.; GTCR Fund X/A LP; Dolphin Holdco, L.P.
20151403	G	TransDigm Group Incorporated; PneuDraulics, Inc.; TransDigm Group Incorporated.
20151418	G	Beacon Roofing Supply, Inc.; Clayton Dubilier & Rice Fund VIII, LP; Beacon Roofing Supply, Inc.
20151420	G	Clayton Dubilier & Rice Fund VIII, L.P.; Beacon Roofing Supply, Inc.; Clayton Dubilier & Rice Fund VIII, L.P.
		08/10/2015
20151325	G	Edwards Lifesciences Corporation; CardiAQ Valve Technologies, Inc.; Edwards Lifesciences Corporation.
20151407	G	K–VA–T Food Stores, Inc.; Lone Star Fund V (U.S.), L.P.; K–VA–T Food Stores, Inc.
		08/11/2015
20151328	G	Sierra Pacific Industries; Murray Pacific Corporation; Sierra Pacific Industries.
20151346	G	Centene Corporation; Health Net, Inc.; Centene Corporation.
20151412	G	New Mountain Partners IV, L.P.; Paxton Jevnick; New Mountain Partners IV, L.P.
20151415	G	Calpine Corporation; James R. Crane; Calpine Corporation.
20151416	G	Corning Incorporated; Gerresheimer AG; Corning Incorporated.
20151419	G	United Parcel Service, Inc.; Warburg Pincus Private Equity X, L.P.; United Parcel Service, Inc.
		08/12/2015
20151353	G	KOUS Holdings, Inc.; OHI Parent, Inc.; KOUS Holdings, Inc.
20151365	G	Third Point Ultra, Ltd.; Yum! Brands, Inc.; Third Point Ultra, Ltd.
20151366	G	Third Point Reinsurance Ltd.; Yum! Brands, Inc.; Third Point Reinsurance Ltd.
20151367	G	Third Point Partners Qualified L.P.; Yum! Brands, Inc.; Third Point Partners Qualified L.P.
20151368	G	Third Point Offshore Fund, Ltd.; Yum! Brands, Inc.; Third Point Offshore Fund, Ltd.
20151373	G	BorgWarner Corp; Remy International, Inc.; BorgWarner Corp.
20151395	G	Stericycle, Inc.; Boost Holdings LP; Stericycle, Inc.
20151411	G	Quincy Newspapers, Inc.; Silver Point Capital Fund, L.P.; Quincy Newspapers, Inc.
		08/13/2015
20151369	G	Biogen Inc.; Eisai Co., Ltd.; Biogen Inc.
20151400	G	SunEdison, Inc.; Blackstone Capital Partners VI, L.P.; SunEdison, Inc.
		08/14/2015
20151206	G	Matthews International Corporation; Aurora Products Group LLC; Matthews International Corporation.
		08/17/2015
20151379	G	Allergan plc; Merck & Co., Inc.; Allergan plc.
20151385	G	GKN plc; London Acquisition LuxCo S.A.r.l.; GKN plc.
20151426	G	Gerresheimer AG; Montagu IV LP; Gerresheimer AG.
20151427	G	Premier Healthcare Alliance, L.P.; Lloyd Myers; Premier Healthcare Alliance, L.P.
20151434	G	LSPFI S.A.S. LLC; Matthew J. Murphy; LSPFI S.A.S. LLC.
20151435	G	LSPFI S.A.S. LLC; Gregory A. Westfall; LSPFI S.A.S. LLC.
20151444	G	NextEra Energy, Inc.; ArcLight Energy Partners Fund III, LP; NextEra Energy, Inc.
20151447	G	China Minsheng Investment Co., Ltd.; White Mountains Insurance Group, Ltd.; China Minsheng Investment Co., Ltd.
20151448	G	BDT Capital Partners Annex Fund, L.P.; ALH Holding Inc.; BDT Capital Partners Annex Fund, L.P.
20151449	G	BDT Capital Partners Fund II (INT), L.P.; ALH Holding Inc.; BDT Capital Partners Fund II (INT), L.P.
20151450	G	BDT Capital Partners Fund II–X, L.P.; ALH Holding Inc.; BDT Capital Partners Fund II–X, L.P.
20151454	G	RLC Industries Co.; SierraPine; RLC Industries Co.
20151458	G	Tom Gores; PSE Holding, LLC; Tom Gores.
		08/18/2015
20151437	G	SunOpta, Inc.; Paine & Partners Capital Fund III, L.P.; SunOpta, Inc.
20151461	G	Black Hills Corporation; General Electric Company; Black Hills Corporation.
		08/20/2015
20151456	G	Kaistar Lighting (Xiamen) Co., Ltd.; Bridgelux, Inc.; Kaistar Lighting (Xiamen) Co., Ltd.
		08/21/2015
20150724	S	Pfizer Inc.; Hospira, Inc.; Pfizer Inc.

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20151404	G	Marathon Petroleum Corp.; MarkWest Energy Partners, L.P.; Marathon Petroleum Corp.
20151408	G	Macquarie Group Limited; Pocahontas Parkway Holdings, LLC (“PPH”); Macquarie Group Limited.
20151433	G	Value Act Capital Master Fund, L.P.; Rolls-Royce Holdings, plc; Value Act Capital Master Fund, L.P.
20151465	G	The Timken Company; AIPCF V AIV C LP; The Timken Company.
20151474	G	Allergan plc; Naurex Inc.; Allergan plc.
20151486	G	Onex TSG/HPP Holdings Corp.; Beecken Petty O’Keefe Fund III, L.P.; Onex TSG/HPP Holdings Corp.
20151487	G	Raycom Media, Inc.; Lawton Cablevision, Inc.; Raycom Media, Inc.
20151494	G	Onex Partners IV LP; Onex TSG/HPP Holdings Corp.; Onex Partners IV LP.
20151495	G	Gerald W. Schwartz; Onex TSG/HPP Holdings Corp.; Gerald W. Schwartz.
20151496	G	Levine Leichtman Capital Partners V, L.P.; Monte Nido Holdings, LLC; Levine Leichtman Capital Partners V, L.P.
20151509	G	ArcLight Energy Partners Fund VI, L.P.; Infigen Energy Limited; ArcLight Energy Partners Fund VI, L.P.
20151510	G	Levine Leichtman Capital Partners V, L.P.; TACH Holdings, Inc.; Levine Leichtman Capital Partners V, L.P.
20151520	G	Kainos Capital Partners, L.P.; SCP PQM FO LLC; Kainos Capital Partners, L.P.
20151522	G	Cardinal Health, Inc.; NaviHealth Group Holdings, L.P.; Cardinal Health, Inc.
20151525	G	AstraZeneca PLC; Amgen Inc.; AstraZeneca PLC.
20151530	G	Silver Lake Partners IV, L.P.; Michael G. Rubin; Silver Lake Partners IV, L.P.

08/24/2015

20151376	G	Kissner Co-Investment Holdings LP; Peter E. Powell; Kissner Co-Investment Holdings LP.
20151513	G	Giovanni Agnelli e C.S. a.p.az.; PartnerRe Ltd.; Giovanni Agnelli e C.S. a.p.az.
20151519	G	Heaven Hill Distilleries, Inc.; DE Spirits LLC; Heaven Hill Distilleries, Inc.

08/25/2015

20151479	G	Yahoo! Inc.; Polyvore Inc.; Yahoo! Inc.
20151503	G	The WhiteWave Foods Company; Jerry Chou; The WhiteWave Foods Company.
20151516	G	Accel-KKR Capital Partners IV, LP; Motor Vehicle Software Corporation; Accel-KKR Capital Partners IV, LP.
20151517	G	Jones Lang LaSalle Incorporated; David A. Williams; Jones Lang LaSalle Incorporated.
20151518	G	Jones Lang LaSalle Incorporated; Kevin Filter; Jones Lang LaSalle Incorporated.
20151526	G	Pentair plc; ERICO Global Company; Pentair plc.

08/26/2015

20151406	G	Ascension Health Alliance; Crittenton Hospital Medical Center; Ascension Health Alliance.
20151441	G	Blue Eagle Holdings, L.P.; eBay Inc.; Blue Eagle Holdings, L.P.
20151442	G	Permira V L.P.2; eBay Inc.; Permira V L.P.2.
20151475	G	Riverside Capital Appreciation Fund VI, L.P.; Pfingsten Partners Fund IV, L.P.; Riverside Capital Appreciation Fund VI, L.P.
20151505	G	Tufts Associated Health Maintenance Organization, Inc.; Peterson Partners VI, L.P.; Tufts Associated Health Maintenance Organization, Inc.
20151511	G	Marlin Equity IV, L.P.; Automatic Data Processing, Inc.; Marlin Equity IV, L.P.
20151514	G	Jonathan Oringer; Shutterstock, Inc.; Jonathan Oringer.
20151528	G	AstraZeneca PLC; Nadine & Samuel Wohlstadter; AstraZeneca PLC.
20151531	G	MSouth Equity Partners II, L.P.; Milestone Partners III, L.P.; MSouth Equity Partners II, L.P.

08/27/2015

20151392	G	Platform Specialty Products Corporation; Alent plc; Platform Specialty Products Corporation.
20151429	G	Tenet Healthcare Corporation; Brookwood Baptist Health 2, LLC; Tenet Healthcare Corporation.
20151452	G	Elliott Associates, L.P.; XPO Logistics, Inc.; Elliott Associates, L.P.
20151457	G	Carl C. Icahn; Cheniere Energy, Inc.; Carl C. Icahn.
20151490	G	40 North Latitude Fund LP; Mattress Firm Holding Corp.; 40 North Latitude Fund LP.
20151491	G	40 North Latitude Fund LP; Cadence Design Systems, Inc.; 40 North Latitude Fund LP.
20151500	G	Samuel Zell; Anixter International Inc.; Samuel Zell.
20151512	G	Wolters Kluwer N.V.; Housatonic Equity Partners, L.P.; Wolters Kluwer N.V.

08/28/2015

20151421	G	Technicolor S.A.; Cisco System, Inc.; Technicolor S.A.
20151422	G	Stock Building Supply Holdings, Inc.; Robert Bowden, Inc.; Stock Building Supply Holdings, Inc.
20151535	G	Trian Partners, L.P.; Sysco Corporation; Trian Partners, L.P.
20151536	G	Trian Star Trust; Sysco Corporation; Trian Star Trust.
20151537	G	Alpha Media Holdings LLC; Garrison Opportunity Fund II A LLC; Alpha Media Holdings LLC.
20151538	G	Trian Partners Co-Investment Opportunities Fund, LLC; Sysco Corporation; Trian Partners Co-Investment Opportunities Fund, LLC.
20151541	G	Trian SPV XI, L.P.; Sysco Corporation; Trian SPV XI, L.P.
20151543	G	Thomas H. Lee Parallel (Cayman) Fund VII; Altaris Health Partners II, LP; Thomas H. Lee Parallel (Cayman) Fund VII.
20151544	G	SNCF Participations; Welsh, Carson, Anderson & Stowe X, L.P.; SNCF Participations.
20151546	G	Golden Gate Capital Opportunity Fund, L.P.; GT Nexus, Inc.; Golden Gate Capital Opportunity Fund, L.P.
20151578	G	Gray Television, Inc.; The Gazette Company; Gray Television, Inc.

EARLY TERMINATIONS GRANTED—Continued
MARCH 1, 2015 THRU SEPTEMBER 30, 2015

09/01/2015		
20151502	G	There Holding B.V.; Nokia Corporation; There Holding B.V.
20151504	G	OceanaGold Corporation; Romarco Minerals Inc.; OceanaGold Corporation.
20151521	G	Yik-Chun Koo Wang; Crestview Partners II (Outbound), L.P.; Yik-Chun Koo Wang.
20151545	G	Markit Ltd.; CoreOne Technologies Holdings, LLC; Markit Ltd.
20151547	G	Nikkei Inc.; Pearson PLC; Nikkei Inc.
20151548	G	TPG Partners VII, L.P.; Sophia AIV I, L.P.; TPG Partners VII, L.P.
20151554	G	Providence Equity Partners VII–A L.P.; Chime Communications plc; Providence Equity Partners VII–A L.P.
20151556	G	International Business Machines Corporation; Merge Healthcare Incorporated; International Business Machines Corporation.
20151575	G	Teodor Gelov; Johnson & Johnson; Teodor Gelov.
20151577	G	NN, Inc.; PEP Industries LLC; NN, Inc.
20151580	G	East Kentucky Power Cooperative, Inc.; LS Power Equity Partners II, L.P.; East Kentucky Power Cooperative, Inc.
20151581	G	GenNx360 Capital Partners II, L.P.; Sentinel Capital Partners III, L.P.; GenNx360 Capital Partners II, L.P.
09/02/2015		
20151534	G	AEA Investors Fund V LP; MS Ventures, LLC; AEA Investors Fund V LP.
20151552	G	Fidelity National Information Services, Inc.; SunGard; Fidelity National Information Services, Inc.
20151559	G	WestRock Company; Avenue Special Situations Fund V, L.P.; WestRock Company.
20151584	G	DigiCert Parent, Inc.; TA XI L.P.; DigiCert Parent, Inc.
09/03/2015		
20151443	G	H.I.G. Middle Market LBO Fund II, L.P.; HSystems Holdings, L.P.; H.I.G. Middle Market LBO Fund II, L.P.
20151553	G	BCP CC Holdings, L.P.; Arnhold and S. Bleichroeder Holdings, Inc.; BCP CC Holdings, L.P.
20151558	G	Flowers Foods, Inc.; AVB, Inc.; Flowers Foods, Inc.
20151583	G	Blackdog Topco Holdings, L.P.; Charlesbank Equity Fund VII, Limited Partnership; Blackdog Topco Holdings, L.P.
09/04/2015		
20151446	G	Teachers Insurance Company and Annuity Association of Americ; Talen Energy Corporation; Teachers Insurance Company and Annuity Association of Americ.
20151476	G	Russell Goldsmith; Royal Bank of Canada; Russell Goldsmith.
20151555	G	Dominion Resources, Inc.; Iroquois Gas Transmission System, L.P.; Dominion Resources, Inc.
20151585	G	Carlyle Partners VI Cayman, L.P.; Symantec Corporation; Carlyle Partners VI Cayman, L.P.
20151586	G	Levine Leichtman Capital Partners V, L.P.; Halifax Capital Partners III, L.P.; Levine Leichtman Capital Partners V, L.P.
20151588	G	James A. Perdue; LNK Partners, L.P.; James A. Perdue.
20151592	G	Lagardere SCA; FS Equity Partners VI, L.P.; Lagardere SCA.
20151595	G	Mueller Industries, Inc.; Tecumseh Products Company; Mueller Industries, Inc.
20151599	G	Xerox Corporation; Rocco Salviola; Xerox Corporation.
20151602	G	Ares Corporate Opportunities Fund IV, L.P.; New Mountain Partners III, L.P.; Ares Corporate Opportunities Fund IV, L.P.
20151603	G	SCI Associates LLC; Quad-C Partners VII, L.P.; SCI Associates LLC.
20151618	G	Imperial Parking Corporation; Revocable Trust No. 2 of James C. Berry (deceased); Imperial Parking Corporation.
20151631	G	Emi Stefani; Gregory P. Santaga; Emi Stefani.
09/08/2015		
20151532	G	Team Health Holdings, Inc.; IPC Healthcare, Inc.; Team Health Holdings, Inc.
20151539	G	Mallinckrodt plc; Gores Capital Partners III, L.P.; Mallinckrodt plc.
20151550	G	MAG Mutual Insurance Company; COPIC Trust; MAG Mutual Insurance Company.
20151625	G	Lincolnshire Equity Fund IV–A, L.P.; Hot Rod Brands Holdings, LLC; Lincolnshire Equity Fund IV–A, L.P.
20151628	G	GenNx360 Capital Partners II, L.P.; Kirtland Capital Partners IV, L.P.; GenNx360 Capital Partners II, L.P.
09/09/2015		
20151527	G	Berry Plastics Group, Inc.; Avintiv Inc.; Berry Plastics Group, Inc.
20151589	G	Teays River Investments, LLC; The Dow Chemical Company; Teays River Investments, LLC.
20151613	G	Blackbaud, Inc.; Smart Tuition Holdings, LLC; Blackbaud, Inc.
20151644	G	American Infrastructure MLP Fund II, L.P.; Flagship Marinas Acquisition, LLC; American Infrastructure MLP Fund II, L.P.
09/10/2015		
20151551	G	Delphi Automotive PLC; Hellermann Tyton Group PLC; Delphi Automotive PLC.
09/14/2015		
20151507	G	Computer Sciences Corporation; Fruition Partners, Inc.; Computer Sciences Corporation.
20151549	G	Johnson & Johnson; Alligator Bioscience AB; Johnson & Johnson.
20151610	G	Qualcomm Incorporated; Rob Lobban; Qualcomm Incorporated.
20151624	G	Thomas A. Potter; Patriot Coal Corporation; Thomas A. Potter.
20151632	G	Carlyle U.S. Equity Opportunity Fund, L.P.; Blyth, Inc.; Carlyle U.S. Equity Opportunity Fund, L.P.
20151635	G	Liberty Interactive Corporation; Mark Vadon; Liberty Interactive Corporation.

EARLY TERMINATIONS GRANTED—Continued
MARCH 1, 2015 THRU SEPTEMBER 30, 2015

20151637	G	Mark Vadon; Liberty Interactive Corporation; Mark Vadon.
20151639	G	Darrell Cavens; Liberty Interactive Corporation; Darrell Cavens.
20151641	G	Sycamore Partners II, L.P.; Belk, Inc.; Sycamore Partners II, L.P.
20151642	G	Vista Foundation Fund II, L.P.; Spectrum Equity Investors V, L.P.; Vista Foundation Fund II, L.P.
20151643	G	Medtronic Public Limited Company; Twelve, Inc.; Medtronic Public Limited Company.
20151645	G	Mr. Remi Marcoux; Mr. Eli Blatt; Mr. Remi Marcoux.
20151648	G	Greenbriar Equity Fund III, L.P.; Transource, LLC; Greenbriar Equity Fund III, L.P.
20151649	G	Envestnet, Inc.; Yodlee, Inc.; Envestnet, Inc.
20151650	G	Apax VIII–B, L.P.; Amalco; Apax VIII–B, L.P.
20151655	G	Luciano Achille Luigi Berti; Emerson Electric Co.; Luciano Achille Luigi Berti.
20151656	G	CP7 International AIV, L.P.; Steiner Leisure Limited; CP7 International AIV, L.P.
20151658	G	Riverside Micro-Cap Fund III, L.P.; Experian plc; Riverside Micro-Cap Fund III, L.P.
20151660	G	Flextronics International Ltd.; NEXTracker, Inc.; Flextronics International Ltd.
20151661	G	Progressive Waste Solutions, Ltd.; CWR Holdings, LLC; Progressive Waste Solutions, Ltd.
20151668	G	Alliance Data Systems Corporation; Toyota Motor Corporation; Alliance Data Systems Corporation.
20151669	G	Audax Private Equity Fund IV, L.P.; Tenex Capital Partners, L.P.; Audax Private Equity Fund IV, L.P.

09/15/2015

20151604	G	Meiji Yasuda Life Insurance Company; StanCorp Financial Group, Inc.; Meiji Yasuda Life Insurance Company.
20151605	G	LSF9 Stardust Holdings, LP; Cretex Companies, Inc.; LSF9 Stardust Holdings, LP.
20151678	G	SS&C Technologies Holdings, Inc.; Citigroup Inc.; SS&C Technologies Holdings, Inc.

09/16/2015

20151597	G	Kerry Group plc; TSG5 L.P.; Kerry Group plc.
20151600	G	St. Joseph Health System; Providence Ministries; St. Joseph Health System.
20151630	G	Providence Ministries; St. Joseph Health System; Providence Ministries.
20151638	G	Quanex Building Products Corporation; Olympus Growth Fund IV, L.P.; Quanex Building Products Corporation.
20151663	G	MedeAnalytics Parent, Inc.; MedeAnalytics, Inc.; MedeAnalytics Parent, Inc.
20151667	G	TA XI L.P.; Vista Foundation Fund I, L.P.; TA XI L.P.
20151674	G	Kelso Investment Associates IX, L.P.; Thoma Cressey Fund VIII, L.P.; Kelso Investment Associates IX, L.P.

09/17/2015

20151562	G	Meggitt PLC; Cobham plc; Meggitt PLC.
20151665	G	Leyard Optoelectronic Co., Ltd.; Planar Systems, Inc.; Leyard Optoelectronic Co., Ltd.
20151670	G	Alan B. Miller; Second Universe Trust; Alan B. Miller.

09/18/2015

20150652	G	Expedia, Inc.; Orbitz Worldwide, Inc.; Expedia, Inc.
20151601	G	Mr. Li Li and Mrs. Li Tan; Cytovance Biologics, Inc.; Mr. Li Li and Mrs. Li Tan.
20151654	G	XL Group PLC; Mary Christine Smith; XL Group PLC.
20151677	G	Irving Place Capital Partners III SPV, L.P.; OTC Holding LLC; Irving Place Capital Partners III SPV, L.P.
20151683	G	Maxum Enterprises LLC; Newco, LLC; Maxum Enterprises LLC.
20151684	G	Seven & i Holdings Co., Ltd.; Mr. & Mrs. Carlos Fontecilla; Seven & i Holdings Co., Ltd.
20151685	G	Seven & i Holdings Co., Ltd.; Mr. Ramiro Ortiz Mayorga; Seven & i Holdings Co., Ltd.
20151686	G	Seven & i Holdings Co., Ltd.; Mr. & Mrs. Arturo Zizold; Seven & i Holdings Co., Ltd.
20151687	G	j2 Global, Inc.; Hewlett-Packard Company; j2 Global, Inc.
20151688	G	Margaret W. Molleston; Encana Corporation; Margaret W. Molleston.
20151689	G	George H. Bishop; Encana Corporation; George H. Bishop.
20151690	G	Olympus Growth Fund VI, L.P.; Sterling Group Partners III, L.P.; Olympus Growth Fund VI, L.P.
20151691	G	Wang Jianlin; Providence Equity Partners VI L.P.; Wang Jianlin.
20151695	G	FMI Associates, L.L.C.; Strommen Holdings Inc.; FMI Associates, L.L.C.
20151698	G	ITT Corporation; Wynnchurch Capital Partners III, L.P.; ITT Corporation.
20151700	G	American Infrastructure MLP Fund II, L.P.; CNL Lifestyle Properties, Inc.; American Infrastructure MLP Fund II, L.P.
20151702	G	Glencore plc; Felda Global Ventures Holdings Berhad; Glencore plc.
20151706	G	AIM Ag Infra, LP; NGP Natural Resources X, L.P.; AIM Ag Infra, LP.
20151709	G	Silver Lake Partners II, L.P.; Fidelity National Information Services, Inc.; Silver Lake Partners II, L.P.
20151710	G	Blackstone Capital Partners IV L.P.; Fidelity National Information Services, Inc.; Blackstone Capital Partners IV L.P.

09/21/2015

20151617	G	AbbVie Inc.; United Therapeutics Corporation; AbbVie Inc.
20151627	G	Raptor Pharmaceuticals Corp.; Tripex Pharmaceuticals, LLC; Raptor Pharmaceuticals Corp.

09/22/2015

20150556	G	General Electric Company; Alstom S.A.; General Electric Company.
20150557	G	Alstom S.A.; General Electric Company; Alstom S.A.
20151591	G	Shenandoah Telecommunications Company; NTELOS Holdings Corp.; Shenandoah Telecommunications Company.
20151594	G	Softbank Group Corp.; Shenandoah Telecommunications Company; Softbank Group Corp.
20151614	G	Valeant Pharmaceuticals International, Inc.; Sprout Pharmaceuticals, Inc.; Valeant Pharmaceuticals International, Inc.

EARLY TERMINATIONS GRANTED—Continued
MARCH 1, 2015 THRU SEPTEMBER 30, 2015

20151664	G	KKR Asian Fund II Japan AIV L.P.; Bayer AG; KKR Asian Fund II Japan AIV L.P.
20151666	G	Amicus Therapeutics, Inc.; Scioderm, Inc.; Amicus Therapeutics, Inc.
20151701	G	JLL Partners Fund VII, L.P.; ATS Parent Co., Inc.; JLL Partners Fund VII, L.P.
20151713	G	Group 1 Automotive, Inc.; Garlyn O. Shelton 2005 Trust; Group 1 Automotive, Inc.
20151714	G	Group 1 Automotive, Inc.; Faye LaJuan Shelton 2005 Trust; Group 1 Automotive, Inc.
		09/24/2015
20151195	S	Endo International plc; TPG Partners VI, LP; Endo International plc.
20151626	G	Carlyle Partners VI, L.P.; Arlington Capital Partners II, L.P.; Carlyle Partners VI, L.P.
20151676	G	Hexagon AB; EcoSys Management LLC; Hexagon AB.
20151718	G	William H. Gates III; OCI N.V.; William H. Gates III.
		09/25/2015
20151620	G	LCP VIII (AIV I), L.P.; Johnson Controls Inc.; LCP VIII (AIV I), L.P.
20151720	G	General Atlantic Partners 93, L.P.; Avant, Inc.; General Atlantic Partners 93, L.P.
20151721	G	Berkshire Fund VIII, L.P.; American Capital Equity III, LP; Berkshire Fund VIII, L.P.
20151722	G	ABRY Partners VIII, L.P.; Altaris Health Partners II, L.P.; ABRY Partners VIII, L.P.
20151725	G	Devon Energy Corporation; Matador Resources Company; Devon Energy Corporation.
20151727	G	FC Trident, LLC; Sentinel Capital Partners IV, L.P.; FC Trident, LLC.
20151738	G	XPO Logistics, Inc.; Con-way Inc.; XPO Logistics, Inc.
20151755	G	ArcLight Energy Partners Fund VI, L.P.; HOVENSA L.L.C.; ArcLight Energy Partners Fund VI, L.P.
		09/28/2015
20151697	G	Sumitomo Life Insurance Company; Symetra Financial Corporation; Sumitomo Life Insurance Company.
20151715	G	Sanchez Production Partners LP; Sanchez Energy Corporation; Sanchez Production Partners LP.
20151732	G	Dot Foods, Inc.; Grabber Construction Products, Inc. Employee Stock Option; Dot Foods, Inc.
20151736	G	Flowers Foods, Inc.; Todd C. and Andrea C. Wood; Flowers Foods, Inc.
20151748	G	LCP VIII (AIV I), L.P.; Clearview Capital Fund II L.P.; LCP VIII (AIV I), L.P.
		09/29/2015
20150271	S	Tornier N.V.; Wright Medical Group, Inc.; Tornier N.V.
20151728	G	C.L. de Carvalho-Heineken; LBC Founders LLC; C.L. de Carvalho-Heineken.
20151731	G	Verizon Communication Inc.; Millennial Media, Inc.; Verizon Communication Inc.
		09/30/2015
20151200	G	Cox Family Voting Trust u/a/d 7/26/13; Dealertrack Technologies, Inc.; Cox Family Voting Trust u/a/d 7/26/13.
20151410	G	ACE Limited; The Chubb Corporation; ACE Limited.
20151729	G	Diane M. Hendricks; Compagnie De Saint-Gobain; Diane M. Hendricks.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry, Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2015–27992 Filed 11–2–15; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–15AEZ]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and

instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Identification of Behavioral and Clinical Predictors of Early HIV Infection (Project DETECT)—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC provides guidelines for HIV testing and diagnosis for the United States, as well as technical guidance for its grantees. CDC will use the HIV testing data collected for this project to update these guidance documents to reflect the latest available testing technologies, their performance characteristics, and considerations regarding their use. Specifically, CDC will describe the information on behavioral and clinical characteristics of persons with early infection to help HIV test providers (including CDC grantees) choose which HIV tests to use and target tests appropriately to persons at different levels of risk. This information will primarily be disseminated through guidance documents (and articles in peer-reviewed journals).

The primary study population will be persons at high risk for or diagnosed with HIV infection, many of whom will be men who have sex with men (MSM) because the majority of new HIV infections occur each year among this population. The goals of the project are to: (1) Characterize the performance of new HIV tests for detecting established and early HIV infection at the point of care, relative to each other and to currently used gold standard, non-POC tests, and (2) identify behavioral and clinical predictors of early HIV infection.

Project DETECT will enroll 1,667 persons annually at the primary study site clinic in Seattle, and an additional 200 persons will be enrolled from other clinics in the greater Seattle area. The study will be conducted in two phases.

Phase 1: After a clinic client consents to participate, he/she will be assigned a unique participant ID and will then undergo testing with the 7 new HIV tests under study. While awaiting test results, participants will undergo additional specimen collections and complete the Phase 1 Enrollment Survey.

Phase 2: All Phase 1 participants whose results on the 7 tests under investigation are not in agreement with one another (''discordant'') will be considered to have a potential early HIV infection. Nucleic amplification testing that detects viral nucleic acids will be conducted to confirm an HIV diagnosis and rule out false positives. Study investigators expect that each year, 50 participants with discordant test results will be invited to participate in serial follow-up specimen collections to assess the time point at which all HIV test results resolve and become concordant positive (indicating enrollment during early infection) or concordant negative (indicating one or more false-positive test results in Phase 1).

The follow-up schedule will consist of up to nine visits scheduled at regular intervals over a 70-day period. At each follow-up visit, participants will be tested with the new HIV tests and additional oral fluid and blood specimens will also be collected for storage and use in future HIV test evaluations at CDC. Participants will be followed up only to the point at which all their test results become concordant. At each time point, participants will be asked to complete the Phase 2 HIV Symptom and Care survey that collects information on symptoms associated with early HIV infection as well as access to HIV care and treatment since the last Phase 2 visit. When all tests become concordant (*i.e.*, at the last Phase 2 visit) participants will complete the Phase 2 behavioral survey to identify any behavioral changes during follow-up. Of the 50 Phase 2 participants, it is estimate that no more than 26 annually will have early HIV infection.

All data for the proposed information collection will be collected via an electronic Computer Assisted Self-Interview (CASI) survey. Participants will complete the surveys on an encrypted computer, with the exception of the Phase 2 Symptom and Care survey, which will be administered by a research assistant and then electronically entered into the CASI system. Data to be collected via CASI include questions on socio-demographics, medical care, HIV testing, pre-exposure prophylaxis, antiretroviral treatment, sexually transmitted disease (STD) history, symptoms of early HIV infection, substance use and sexual behavior.

Data from the surveys will be merged with HIV test results and relevant clinical data using the unique ID number. Data will be stored on a secure server managed by the University of Washington Department of Medicine IT Services. The participation of respondents is voluntary. There is no cost to the respondents other than their time. The total annual burden hours are 2,110.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Persons eligible for study	Phase 1 Consent	2,334	1	15/60
Enrolled participants	Phase 1 Enrollment Survey A	1,667	1	45/60
	Phase 1 Enrollment Survey B	200	1	60/60
	Phase 2 Consent	50	1	15/60
	Phase 2 HIV Symptom and Care Survey	50	9	5/60
	Phase 2 Behavioral Survey	50	1	30/60

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. 2015–27888 Filed 11–2–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–0824]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

BioSense (OMB Control No. 0920–0824, Expiration 11/30/2015)—Revision—Center for Surveillance, Epidemiology and Laboratory Services (CSELS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The BioSense Program was created by congressional mandate as part of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and was launched by the CDC in 2003. The original BioSense Program (BioSense 1.0) was intended to serve as a national level public health syndromic surveillance system for early detection and rapid assessment of potential bioterrorism-related illness and injury. In 2009, CDC began planning and developing the computing cloud-based BioSense 2.0 Platform. This cloud-based system would offer secure storage space for data and data sharing capacity for each state and local health department. Since August 2012, when CDC submitted a request to OMB for approval of a revision to the BioSense information collection request, HHS published new guidance on Meaningful Use of Electronic Health Records for syndromic surveillance. During this time, CDC also initiated its new CDC Surveillance Strategy. These actions provided new guidance for improvements to the BioSense Program, which resulted in new requirements for data submission to the BioSense Platform and new requests specified below.

CDC requests a three-year Revision approval for BioSense. This Revision includes new requests for approval to: (1) Change the title of the information collection request from BioSense to the National Syndromic Surveillance Program (NSSP); (2) receive data from additional state, local, and territorial health departments; (3) receive from state, local, and territorial health departments syndromic surveillance data submitted to those health departments from urgent care, ambulatory care and hospital inpatient settings (in addition to data from hospital emergency departments, included in the previously approved information collection request); and (4) receive from state, local, and territorial health departments additional syndromic surveillance data elements.

The total estimated number of burden hours has decreased since the previously approved information collection request because we inadvertently included estimates for the Department of Defense, Department of Veterans Affairs, and the two organizations that provide pharmacy data. We only included estimates for state, local, and territorial public health jurisdictions and the private sector laboratory company that provides laboratory data free of charge to CDC in this information collection request. There is no burden for the private sector laboratory company for recruitment, registration, and healthcare data collection. The private sector laboratory company chose their sharing permissions when they registered to use the system. The estimated annual burden is 39 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
State, Local and Territorial Public Health Departments	Recruitment Information Collection	20	1	1
State, Local and Territorial Public Health Departments	Registration Information Collection	200	1	5/60
State, Local, and Territorial Public Health Departments	Healthcare Information Collection: Administrator Data Sharing Agreements/Permissions.	20	1	5/60

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. 2015–27890 Filed 11–2–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–0960]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Epidemiologic Study of Health Effects Associated With Low Pressure Events in Drinking Water Distribution Systems (OMB Control No. 0920–0960, expiration 3/31/2016)—Extension—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In the United States (U.S.), drinking water distribution systems are designed to deliver safe, pressurized drinking water to our homes, hospitals, schools and businesses. However, the water distribution infrastructure is 50–100 years old in much of the U.S. and an estimated 240,000 water main breaks occur each year. Failures in the distribution system such as water main breaks, cross-connections, back-flow, and pressure fluctuations can result in potential intrusion of microbes and other contaminants that can cause health effects, including acute gastrointestinal and respiratory illness.

Approximately 200 million cases of acute gastrointestinal illness occur in the U.S. each year, but we lack reliable data to assess how many of these cases are associated with drinking water. Further, data are even more limited on the human health risks associated with exposure to drinking water during and after the occurrence of low pressure events (such as water main breaks) in drinking water distribution systems. A study conducted in Norway from 2003–2004 found that people exposed to low pressure events in the water distribution system had a higher risk for gastrointestinal illness. A similar study is needed in the United States.

The purpose of this data collection is to conduct an epidemiologic study in the U.S. to assess whether individuals exposed to low pressure events in the water distribution system are at an increased risk for acute gastrointestinal or respiratory illness. This study would be, to our knowledge, the first U.S. study to systematically examine the association between low pressure events and acute gastrointestinal and respiratory illnesses. Study findings will inform the Environmental Protection Agency (EPA), CDC, and other drinking water stakeholders of the potential health risks associated with low pressure events in drinking water distribution systems and whether additional measures (*e.g.*, new standards, additional research, or policy development) are needed to reduce the risk for health effects associated with low pressure events in the drinking water distribution system.

We will conduct a cohort study among households that receive water from six water utilities across the U.S. The water systems will be geographically diverse and will include both chlorinated and chloraminated systems. These water utilities will provide information about low pressure events that occur during the study period using a standardized form (approximately 11 events per utility). Utilities will provide address listings of households in areas exposed to the low pressure event and comparable households in an unexposed area to CDC staff, who will randomly select participants and send them an introductory letter and questionnaire. Consenting household respondents will be asked about symptoms and duration of any recent gastrointestinal or respiratory illness, tap water consumption, and other exposures including international travel, daycare attendance or employment, animal contacts, and recreational water exposures. Study participants may choose between two methods of survey response: A mail-in paper survey and a Web-based survey.

Participation in this study will be voluntary. No financial compensation will be provided to study participants. The study duration is anticipated to last 30 months. An estimated 6,750 individuals will be contacted and we anticipate 4,050 utility customers (18 years of age or older) will consent to participate in this study. The total estimated annualized hours associated with this study is expected to be 548.

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 hrs.)
Households	Paper-based questionnaire	1,215	1	12/60
Households	Web-based questionnaire	810	1	12/60
Utility employees	Household listing	6	5	3
Utility employees	Water sample collection (grab samples)	6	3	130/60
Utility employees	Water sample collection (ultrafiltration samples)	6	2	30/60
Utility employees	Low pressure event form	6	5	15/60

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. 2015–27889 Filed 11–2–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0589]

Human Immunodeficiency Virus-1 Infection: Developing Antiretroviral Drugs for Treatment; 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 guidance for industry entitled ''Human Immunodeficiency Virus-1 Infection: Developing Antiretroviral Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in all phases of development of antiretroviral drugs and therapeutic biologic products for the treatment of HIV–1 infection.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: You may submit comments 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):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, 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–2013–D–0589 for ''Human Immunodeficiency Virus-1 Infection: Developing Antiretroviral Drugs for Treatment; Guidance for Industry; Availability.'' 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 Division of Dockets Management 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 Division of Dockets Management. 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: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of this 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 guidance document.

FOR FURTHER INFORMATION CONTACT: Jeffrey Murray, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6360, Silver Spring, MD 20993–0002, 301–796–1500.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Human Immunodeficiency Virus-1 Infection: Developing Antiretroviral Drugs for Treatment.'' This guidance assists sponsors in all phases of drug development including nonclinical development, early phases of clinical development, phase 3 protocol designs, and endpoints for the treatment of HIV. This guidance specifically addresses HIV drug development in populations in need of additional HIV drugs for maintaining HIV suppression including trial designs for heavily treatment-experienced patients (multiple-drug-resistant patients with few remaining options); use of early virologic assessments as primary endpoints in trials evaluating antiretroviral drugs in heavily treatment-experienced patients; recommended trial durations based on medical need; and risk-benefit in the targeted patient population.

This guidance finalizes the draft guidance of the same name published in the **Federal Register** June 5, 2013 (78 FR 33848), and replaces the guidance for industry entitled ''Antiretroviral Drugs Using Plasma HIV RNA Measurements—Clinical Considerations for Accelerated and Traditional Approval'' issued October 2002.

The public comments received on the draft guidance have been considered and the guidance has been revised to: (1) Clarify definitions of treatment-naïve and treatment-experienced patient categories with respect to both drug susceptibility and clinical history; (2) add recommendations for trial designs that investigate switching treatment regimens in patients who are suppressed on current therapy; and (3) briefly discuss recommendations for labeling claims for safety endpoints.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on developing antiretroviral drugs for the treatment of HIV infection. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014, the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001, and the collections of information referred to in the guidance for industry entitled ''Establishment and Operation of Clinical Trial Data Monitoring Committees'' have been approved under OMB control number 0910–0581.

III. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: October 28, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–27935 Filed 11–2–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0902]

Agency Information Collection Activities; Proposed Collection; Submission for Office of Management and Budget Review; Prescription Drug Product Labeling; Medication Guide Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Fax written comments on the collection of information by December 3, 2015.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0393. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Prescription Drug Product Labeling; Medication Guide Requirements OMB Control Number 0910–0393—Extension

FDA regulations require the distribution of patient labeling, called Medication Guides, for certain prescription human drug and biological products used primarily on an outpatient basis that pose a serious and significant public health concern requiring distribution of FDA approved patient medication information. These Medication Guides inform patients about the most important information they should know about these products in order to use them safely and effectively. Included is information such as the drug's approved uses, contraindications, adverse drug reactions, and cautions for specific populations, with a focus on why the particular product requires a Medication Guide. These regulations are intended to improve the public health by providing information necessary for patients to use certain medication safely and effectively.

The regulations contain the following reporting requirements that are subject to the PRA:

- 21 CFR 208.20—Applicants must submit draft Medication Guides for FDA approval according to the prescribed content and format.
- 21 CFR 314.70(b)(3)(ii) and 21 CFR 601.12(f)—Application holders must submit changes to Medication Guides to FDA for prior approval as supplements to their applications.
- 21 CFR 208.24(c)—Each distributor or packer that receives Medication Guides, or the means to produce Medication Guides, from a manufacturer under paragraph (b) of this section shall provide those Medication Guides to each authorized dispenser to whom it ships a container of drug product.

• 21 CFR 208.24(e)—Each authorized dispenser of a prescription drug product for which a Medication Guide is required, when dispensing the product to a patient or to a patient's agent, must provide a Medication Guide directly to each patient unless an exemption applies under 21 CFR 208.26.

• 21 CFR 208.26(a)—Requests may be submitted for exemption or deferral from particular Medication Guide content or format requirements.

In the **Federal Register** of May 29, 2015 (80 FR 30688), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received one comment.

One comment requested clarification of FDA's burden estimates for 21 CFR 208.24(c)—how the burden estimates were calculated and clarification of the definitions of ''respondent,'' ''average burden per respondent,'' and ''disclosures per respondent''. The comment asked whether ''respondent'' means the total number of individual warehouses owned and operated by all wholesale distribution companies or the number of wholesale distribution companies (which have multiple warehouses). The comment asked whether ''disclosures per respondent'' includes every instance that a Medication Guide is provided with any drug in 1 year or if it means the number of different types of drugs that a distributor would sell in a year for which a manufacturer was required to develop and supply a Medication Guide. The comment said that the number of ''disclosures per respondent'' would vary greatly depending on whether the word ''respondent'' means individual warehouses or wholesale distribution companies.

Concerning the burden hour estimates, the comment asked whether 1.25 hours (average burden per disclosure) includes the varying ways that wholesale distributors receive and distribute Medication Guides with shipments. The comment said that Medication Guides are provided to wholesale distributors from the manufacturer by multiple methods: For example, they are sometimes included with the package insert alone, provided in the package with the drug, or as loose leaf sheet(s) of paper and bulk-shipped to the wholesale distributor as a separate shipment or placed within the container in which the prescription product is shipped to the wholesale distributor. The comment said that if the Medication Guide is included on tear-off sheets or as loose-leaf paper, wholesale distributors would be responsible for coordinating the movement of those papers, taking significantly more time.

FDA Response: FDA has used, in part, information previously provided by stakeholders to determine the burden estimates. The 191 respondents under 21 CFR 208.24(c) in table 2 refers to the number of distribution centers. The 1.25 hour estimate for the ''average burden per respondent'' includes considerations such as the burden to receive, process, copy, store, select, and ship Medication Guides. The burden is an average estimate to address the various scenarios for distributing Medication Guides including electronically and in paper format. The ''disclosures per respondent'' refers to the number of instances Medication Guides are provided to distributors in a format that is physically separate from the drug product and must be handled and processed separately. Because the comment did not indicate if the calculations were overestimated or underestimated, we continue to use 191 for the number of respondents, 9,000 for the number of disclosures per respondent, and 1.25 hours as the average burden per disclosure.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Content and Format of a Medication Guide—208.20	57	1	57	320	18,240
Supplements and Other Changes to an Approved Application—314.70(b)(3)(ii), 601.12(f)	108	1	108	72	7,776
Exemptions and Deferrals—208.26(a)	1	1	1	4	4
Total					26,020

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR Section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
208.24(c)	191	9,000	1,719,000	1.25	2,148,750
Distributing and Dispensing a Medication Guide—208.24(e)	88,736	5,000	443,680,000	0.05 (3 minutes)	22,184,000
Total					24,332,750

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: October 28, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–27945 Filed 11–2–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0115]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Guidance for Industry and Food and Drug Administration Staff—Class II Special Controls Automated Blood Cell Separator Device Operating by Centrifugal or Filtration Separation Principle

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Guidance for Industry and Food and Drug Administration Staff—Class II Special Controls Automated Blood Cell Separator Device Operating by Centrifugal or Filtration Separation Principle'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On June 29, 2015, the Agency submitted a proposed collection of information entitled ''Guidance for Industry and Food and Drug Administration Staff—Class II Special Controls Automated Blood Cell Separator Device Operating by Centrifugal or Filtration Separation Principle'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0594. The approval expires on September 30, 2018. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: October 28, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–27970 Filed 11–2–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–2076]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Survey on Occurrence of Foodborne Illness Risk Factors in Selected Retail and Foodservice Facility Types

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Survey on Occurrence of Foodborne Illness Risk Factors in Selected Retail and Foodservice Facility Types'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On August 18, 2015, the Agency submitted a proposed collection of information entitled ''Survey on Occurrence of Foodborne Illness Risk Factors in Selected Retail and Foodservice Facility Types'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0744. The approval expires on September 30, 2018. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: October 28, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–27944 Filed 11–2–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3921]

Health Canada and United States Food and Drug Administration Joint Public Consultation on International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use; Public Webinar; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public webinar; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a regional public webinar entitled ''Health Canada and U.S. Food and Drug Administration Joint Public Consultation on International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH).'' The goal of this webinar is to provide information and receive comments on the ICH, as well as the upcoming ICH meetings in Jacksonville, FL, in December 2015. The topics to be discussed are the topics for discussion at the forthcoming ICH Management Steering Meeting. The purpose of the webinar is to solicit public input prior to the next Steering Committee and Expert Working Group meetings in Jacksonville, FL, scheduled for December 5 to 10, 2015, at which the discussion of the topics underway and ICH reforms will continue.

DATES: The public webinar will be held on November 12, 2015, from 1 p.m. to 4 p.m., Eastern Standard Time. Registration to attend the webinar and requests for online presentations must be received by November 6, 2015. See the **SUPPLEMENTARY INFORMATION** section for information on how to register for the webinar. Interested persons may submit either electronic or written comments to the public docket (see **ADDRESSES**) by December 12, 2015.

ADDRESSES: You may submit comments 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):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, 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–2015–N–3921 for ''Health Canada and U.S. Food and Drug Administration Joint Public Consultation on International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use; Public Webinar.'' 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 Division of Dockets Management 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 Division of Dockets Management. 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: *http://www.fda.gov/regulatoryinformation/dockets/default.htm*.

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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amanda Roache, Food and Drug Administration, Center for Drug Evaluation and Research, Office of Strategic Programs, 10903 New Hampshire Ave., Bldg. 51, Rm. 1128, Silver Spring, MD 20993, 301–796–4548, email: *Amanda.Roache@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The ICH was established in 1990 as a joint regulatory/industry project to improve, through harmonization, the efficiency of the process for developing and registering new medicinal products in Europe, Japan, and the United States without compromising the regulatory obligations of safety and effectiveness. In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for medical product development among regulatory Agencies. ICH was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. Members of the ICH Steering Committee include the European Union; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labor, and Welfare; the Japanese Pharmaceutical Manufacturers Association; FDA; the Pharmaceutical Research and Manufacturers of America; Health Canada; Swissmedic; and the World Health Organization (as an Observer). The ICH process has achieved significant harmonization of the technical requirements for the approval of pharmaceuticals for human use in the ICH regions over the past two decades. The current ICH process and structure can be found at the following Web site: *http://www.ich.org*. (FDA has verified the Web site addresses as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.)

II. Webinar Attendance and Participation

A. Registration

If you wish to attend the webinar, submit a request in writing via email to *HPFB_ICH_DGPSA@hc-sc.gc.ca* by November 6, 2015. Registrations may be limited, so early registration is recommended. Registration is free and will be on a first-come, first-served basis. However, the number of participants from each organization may be limited based on space limitations. Registrants will receive confirmation once they have been accepted. If you need special accommodations because of a disability, please contact Amanda Roache (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the webinar.

B. Requests for Online Presentations

Interested persons may present data, information, or views orally or in writing on issues pending at the public webinar. Online presentations made by the public will be scheduled between approximately 3:30 p.m. and 4 p.m. Time allotted for online presentations may be limited to 5 minutes. Those desiring to make online presentations should notify Amanda Roache (see **FOR FURTHER INFORMATION CONTACT**) by November 6, 2015, and submit a brief statement of the general nature of the evidence or arguments they wish to present; the names and addresses, telephone number, fax, and email of proposed participants; and an

indication of the approximate time requested to make their presentation. The agenda for the public webinar will be made available on the Internet at *http://www.fda.gov/Drugs/NewsEvents/ucm466461.htm.*

III. Transcripts

Please be advised that as soon as a webinar transcript is available, FDA will post it at *http://www.fda.gov/Drugs/NewsEvents/ucm466461.htm.*

Dated: October 29, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–27953 Filed 11–2–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Science Board to the Food and Drug Administration Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Science Board to the Food and Drug Administration (Science Board).

General Function of the Committee: The Science Board provides advice to the Commissioner of Food and Drugs and other appropriate officials on specific, complex scientific and technical issues important to the FDA and its mission, including emerging issues within the scientific community. Additionally, the Science Board provides advice to the Agency on keeping pace with technical and scientific developments including in regulatory science, input into the Agency's research agenda and on upgrading its scientific and research facilities and training opportunities. It will also provide, where requested, expert review of Agency sponsored intramural and extramural scientific research programs.

Date and Time: The meeting will be held on November 18, 2015, from 9 a.m. until 4 p.m.

Location: Food and Drug Administration, White Oak 31, Rm. 1503, Section A, 10903 New Hampshire Ave., Silver Spring, MD 20993. For those unable to attend in person, the meeting will also be webcast. The link for the webcast is available at *https://collaboration.fda.gov/scienceboard1115/.* Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

Contact Person: Rakesh Raghuwanshi, Office of the Chief Scientist, Office of the Commissioner, Food and Drug Administration, White Oak Bldg. 1 Rm. 3309, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–4769, *rakesh.raghuwanshi@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The Science Board will be provided with updates from the Center for Food Safety and Applied Nutrition, Centers for Excellence in Regulatory Science and Innovation, Evaluation Subcommittee and the ORA Food Emergency Response Network Evaluation Subcommittee. The Board will hear about the scope of FDA's involvement in precision medicine, as well as an overview of specific health informatics initiatives including precision FDA, Open FDA, and Chillax. The Board will also hear about FDA's laboratory safety initiative. A recipient of one of the FY 2014 Scientific Achievement Awards (selected by the Board) will provide an overview of the activities for which the award was given.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 11, 2015. Oral presentations from the public will be scheduled between approximately 3 and 4 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 11, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to November 13, 2015.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Rakesh Raghuwanshi at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 28, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–27957 Filed 11–2–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.18 of the Department of Health and Human Services' claims collection regulations (45 CFR part 30) provides that the Secretary shall charge an annual rate of interest, which is determined and fixed by the Secretary of the Treasury after considering private consumer rates of interest on the date that the Department of Health and Human Services becomes entitled to recovery. The rate cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities'' unless the Secretary waives interest in whole or part, or a different rate is prescribed by statute, contract, or repayment agreement. The Secretary of the Treasury may revise this rate quarterly. The Department of Health and Human Services publishes this rate in the **Federal Register**.

The current rate of 10.0%, as fixed by the Secretary of the Treasury, is certified for the quarter ended September 30, 2015. This rate is based on the Interest Rates for Specific Legislation, ''National Health Services Corps Scholarship Program (42 U.S.C. 254o(b)(1)(A))'' and ''National Research Service Award Program (42 U.S.C. 288(c)(4)(B)).'' This interest rate will be applied to overdue debt until the Department of Health and Human Services publishes a revision.

Dated: October 20, 2015.

David C. Horn,

Director, Office of Financial Policy and Reporting.

[FR Doc. 2015–27969 Filed 11–2–15; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Privacy Act of 1974; System of Records Notice

AGENCY: Office of the Secretary (OS), Department of Health and Human Services (HHS).

ACTION: Notice to alter two Privacy Act systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Department of Health and Human Services (HHS) is updating an existing, department-wide system of records, System No. 09–90–0024, titled ''Unified Financial Management System'' (UFMS), which covers accounts payable records and accounts receivable records retrieved by personal identifier; and is transferring one routine use (pertaining to administrative wage garnishment) to a related system of records, System No. 09–40–0012, titled ''Debt Management and Collection System.''

System No. 09–90–0024, ''Unified Financial Management System,'' was established prior to 1979 (see 44 FR 58149). The System of Records Notice (SORN) was last revised and republished in full in 2005 (see 70 FR 38145). This Notice proposes to change the name to ''HHS Financial Management System Records;'' update records locations and System Manager contact information; narrow the scope of the SORN by excluding certain descriptions and routine uses pertaining to collection of overdue and delinquent federal debts, which are currently covered in, or are now proposed to be covered in, the SORN for System No. 09–40–0012 ''Debt Management and Collection System;'' add several new routine uses, combine and revise certain existing routine uses, and delete unnecessary routine uses; and update the safeguards, record retention procedures, and record source descriptions. The changes are more fully explained in the **SUPPLEMENTARY INFORMATION** section of this Notice.

DATES: The altered system notice is effective immediately, with the exception of the routine uses that are proposed to be added, revised, or transferred. The new, revised, and transferred routine uses will be effective 30 days after publication, unless HHS receives comments that warrant a revision to this Notice.

ADDRESSES: Send public comments by mail to: Sara Hall, Chief Information Security Officer, 200 Independence Ave. SW., Room #326E, Washington, DC 20201, or by email to: *sara.hall@hhs.gov*. Comments will be available for public inspection and copying at the above location.

FOR FURTHER INFORMATION CONTACT: Sara Hall, Chief Information Security Officer, 200 Independence Ave. SW., Room #326E, Washington, DC 20201, *sara.hall@hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Updates to System No. 09–90–0024

Since the last republication of the Unified Financial Management System SORN in 2005, the System Manager contact information has changed, and some of the records locations have changed. In reviewing the SORN for other updates to make, HHS determined that the name and scope should be changed to reflect that the system of records is not limited to records associated with a particular information technology (IT) system known as the Unified Financial Management System (UFMS), because HHS uses multiple IT systems for financial management purposes, the IT system names may change, and certain supporting records are not maintained in the IT systems, but are maintained in hard copy only. The system of records currently excludes salary and wage payment records processed in a payroll system; HHS determined that certain descriptions and routine uses pertaining to collection of overdue and delinquent federal debts should also be excluded from this SORN, to avoid (to the extent possible) duplicating System No. 09–40–0012 ''Debt Management and Collection System.'' (System No. 09–40–0012 is a subset of this system of records; it covers records pertaining to debt collection functions, and also utilizes the central accounting system known as UFMS.) The safeguards, record retention procedures, and record source descriptions have also been updated.

The remaining changes affect the routine uses:

- Routine uses 3 and 13 through 17 are being added; they will authorize disclosures pertaining to law violations, private relief legislation, audits, insurance and similar matters, cybersecurity monitoring, and security breach response.
- The following routine uses are being revised:
  - Routine use 1, authorizing disclosures to Treasury to effect payments, has been revised to include ''verifying payment eligibility,'' and to authorize disclosures under any future ''Do Not Pay'' computer matching agreement entered into with Treasury that requires data from this system of records.
  - The word ''written'' has been added to routine use 2 (pertaining to disclosures to Members of Congress).
  - Former routine uses 4 and 5 (pertaining to disclosures to obtain information relevant to an HHS decision and to provide information relevant to another agency's decision) are now combined at number 5.
  - The litigation routine use (formerly 8, now 7) has been reworded.
  - Former routine uses 16 and 17 (pertaining to disclosures to contractors and other individuals not having the status of agency employees) are now combined at number 12.

• The following routine uses are being deleted:

○ The routine use formerly numbered as 3 (pertaining to disclosures to the U.S. Department of Justice to obtain its advice regarding information required to be provided under the Freedom of Information Act) has been deleted as unnecessary, because HHS' Office of General Counsel provides such advice with respect to specific records, and because another routine use authorizes disclosures to DOJ in the event of litigation.

○ The routine uses formerly numbered as 11, 12, and 13, the last portion of the routine use formerly numbered as 14 (now 10), and the routine uses formerly numbered as 19, 20, and 21 have been deleted as duplicating another UFMS routine use, or as duplicating debt collection-related routine uses previously published for System No. 09–40–0012, ''Debt Management and Collection System'' (Debt). Specifically:

■ UFMS routine use 11a. through c. duplicated Debt routine use 11;

■ UFMS routine use 11d. duplicated Debt routine uses 5, 7, and 10;

■ UFMS routine use 11e. duplicated Debt routine use 10;

■ UFMS routine use 11f. duplicated Debt routine use 3;

■ UFMS routine use 11g. duplicated Debt routine use 16;

■ UFMS routine use 12 duplicated Debt routine use 10;

■ UFMS routine use 13 duplicated Debt routine use ''Special Disclosures to Consumer Reporting Agencies;''

■ the last portion of UFMS routine use 14 duplicated Debt routine use 13;

■ UFMS routine use 19 duplicated the UFMS routine use ''Disclosure to Consumer Reporting Agencies'';

■ UFMS routine use 20 duplicated Debt routine use 14; and

■ UFMS routine use 21 duplicated Debt routine use 15.

○ The routine use formerly numbered as 18, pertaining to computer matching of a list of debtors against a list of federal employees, has been deleted because such matching programs are not currently conducted or contemplated.

○ The routine use formerly numbered as 22, pertaining to administrative wage garnishment, has been deleted because it is being transferred to System No. 09–40–0012 as routine use 18.

II. Routine Use Revised and Transferred to System No. 09–40–0012

The routine use pertaining to administrative wage garnishment, appearing in the current UFMS SORN as number 22, is being deleted from the UFMS SORN and included in revised form as routine uses 18 in the SORN previously published for System No. 09–40–0012, ''Debt Management and Collection System.'' The revised wording will more accurately describe the data elements disclosed to a debtor's employer for administrative wage garnishment purposes.

III. The Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the U.S. Government collects, maintains, and uses information about individuals in a system of records. A ''system of records'' is a group of any records under the control of a federal agency from which information about an individual is retrieved by the individual's name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a system of records notice (SORN) identifying and describing each system of records the agency maintains, including the purposes for which the agency uses information about individuals in the system, the routine uses for which the agency discloses such information outside the agency, and how individual record subjects can exercise their rights under the Privacy Act (*e.g.,* to seek access to their records in the system).

Dated: October 14, 2015.

Deepak Bhargava,

Director, Office of Program Management and Systems Policy, Assistant Secretary for Financial Resources, Department of Health and Human Services.

Routine Use Added to System No. 09–40–0012

The following routine use 18 is added to the System of Records Notice (SORN) for System No. 09–40–0012, titled ''Debt Management and Collection System,'' which was last published December 11, 1998 at 63 FR 68596:

18. If HHS decides to administratively garnish wages of a delinquent debtor under the wage garnishment provision in 31 U.S.C. 3720D, a record from the system may be disclosed to the debtor's employer. This disclosure will take the form of a wage garnishment order directing that the employer pay a portion of the employee/debtor's wages to the federal government. Disclosure of records is limited to the debtor's name, alias name, and Social Security Number, creditor agency name and contact information, and debt amount due as of a certain date.

SYSTEM NUMBER:

09–90–0024.

SYSTEM NAME:

HHS Financial Management System Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Servers for the electronic systems are located in Bethesda, Maryland (primary facility) and Sterling, Virginia (backup facility). Beginning approximately December 2015, the primary hosting locations will be Austin, Texas, and Bethesda, Maryland, and the backup locations will be Colorado Springs, Colorado and Sterling, Virginia.

Source documents used to enter data into the electronic systems, and supporting records providing additional background information, are maintained in finance offices and/or in the relevant administrative and/or program office(s), or by a designated claims officer apart from the finance office. See Appendix 1 for finance office locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records pertain to individuals who receive or are entitled to a payment from HHS, and individuals who pay or owe money to HHS. Individuals receiving payments include, but are not limited to, members of the public who have established a claim against HHS, such as under the Federal Tort Claims Act; HHS employees who receive award payments, reimbursements for official travel and training expenses, subsidies for mass transit expenses, and similar payments; HHS grantees, contractors and consultants; Fellows; and recipients of HHS loans and scholarships. Individuals owing monies include, but are not limited to, individuals who have been overpaid and who owe HHS a refund, and individuals who have received goods or services from HHS for which there is a charge or fee (*e.g.,* Freedom of Information Act requesters).

CATEGORIES OF RECORDS IN THE SYSTEM:

The records consist of accounts payable records and accounts receivable records pertaining to individual payees/obligees and individual payors/obligors, excluding payroll records and records used to collect and manage delinquent federal debts, which are covered in separate systems of records. The records contain the individual's name, identification number/Social Security Number (SSN) or EIN/TIN, mailing address, email address, phone number, purpose of payment or request for payment, bank account and routing numbers, accounting classification, and the amount paid. Accounts receivable

records pertaining to an overpayment or outstanding charge, fee, loan, grant, or scholarship will also include the amount of the indebtedness, the repayment status, and the amount to be collected.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3512, 3711, 3716, 3721, 1321 note; E.O. 13520.

PURPOSE(S):

Relevant HHS personnel use the records on a need-to-know basis to process and track payments made and monies owed to or by individuals and HHS, and to ensure that payments by HHS are based on an official commitment and obligation of government funds. When an individual is required to repay funds that have been advanced to him (*e.g.,* as a loan or scholarship), records are used to establish a receivable record and to track repayment status. In the event of an overpayment to an individual, records are used to establish a receivable record for recovery of the amount claimed. Records of payments and uncollectible debts are also used to develop reports of taxable income to the Internal Revenue Service (IRS) and applicable state and local taxing officials.

Records in this system of records that pertain to overdue and delinquent federal debts are also used for debt collection purposes, as described in the SORN published for System of Records No. 09–40–0012 ''Debt Management and Collection System.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Records from this system of records may be disclosed to the following parties outside HHS, without the individual's consent, for these purposes:

1. Records will be routinely disclosed to the Treasury Department for purposes of verifying payment eligibility using Treasury's ''Do Not Pay'' (DNP) system and effecting payments. Records may also be disclosed to Treasury pursuant to a DNP computer matching agreement between HHS and Treasury for purposes authorized by 31 U.S.C. 3321 note and E.O. 13520, if the matching program requires data from this system of records.

2. Records may be disclosed to Members of Congress concerning a federal financial assistance program in order for Members to make informed opinions on programs and/or activities impacting legislative decisions. Also, disclosure may be made to a Congressional office from an individual's record in response to a written inquiry from the congressional office made at the written request of the individual in order to be responsive to the constituency.

3. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate public authority, whether federal, foreign, state, local, tribal, or otherwise, responsible for enforcing, investigating, or prosecuting the violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to the enforcement, regulatory, investigative, or prosecutorial responsibility of the receiving entity.

4. A record from this system may be disclosed to a federal, foreign, state, local, tribal or other public authority of the fact that this system of records contains information relevant to the hiring or retention of an employee, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for further information if it so chooses. HHS will not make an initial disclosure unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another federal agency for criminal, civil, administrative, personnel, or regulatory action.

5. Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service (IRS) or the U.S. Commission on Civil Rights, issue a subpoena to HHS for records in this system of records, HHS will make such records available; provided, however, that in each case, HHS determines that the disclosure is compatible with the purpose for which the records were collected.

6. Information may be disclosed to a labor organization recognized under E.O. 11491 or 5 U.S.C. Chapter 71, when a contract between a component of the Department and the labor organization provides that the agency will disclose personal records when relevant and necessary to the organization's duties of exclusive representation concerning civilian personnel policies, practices, and matters affecting working conditions.

7. A record may be disclosed to the Department of Justice (DOJ) or to a court or other tribunal when:

a. HHS, or any component thereof;

b. any HHS employee in his/her official capacity;

c. any HHS employee in his/her individual capacity where DOJ (or HHS, where it is authorized to do so) has agreed to represent the employee; or

d. the United States Government,

is a party to litigation or has an interest in such litigation and, by careful review, HHS determines that the records are both relevant and necessary to the litigation and that, therefore, the use of such records by the DOJ, court, or other tribunal is deemed by HHS to be compatible with the purpose for which HHS collected the records.

8. A record about a loan applicant or potential contractor or grantee may be disclosed from the system of records to credit reporting agencies to obtain a credit report in order to determine the individual's creditworthiness and ability to repay debts to the federal government.

9. When an individual applies for a loan under a loan program as to which the Office of Management and Budget (OMB) has made a determination under I.R.C. 6103(a)(3), a record about his/her application may be disclosed to the Treasury Department to find out whether he/she has a delinquent tax account, for the sole purpose of determining the individual's creditworthiness.

10. Information from this system of records is used to report, to the Internal Revenue Service and applicable state and local governments, items considered to be income to an individual; for example, certain travel-related payments to employees, and all payments made to individuals not treated as employees (*e.g.,* fees to consultants and experts).

11. A record may be disclosed to banks enrolled in the Treasury Credit Card Network to collect a payment or debt by credit card when the individual has given his/her credit card number for this purpose.

12. Information may be disclosed to federal agencies and Department contractors, grantees, consultants, or volunteers who have been engaged by HHS to assist in accomplishment of an HHS function relating to the purposes of the system of records and that need to have access to the records in order to assist HHS in performing the activity. Any contractor will be required to comply with the requirements of the Privacy Act of 1974.

13. Information may be disclosed to the Office of Management and Budget (OMB) at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular A–19.

14. Information may be disclosed to a public or professional auditing organization for the purpose of conducting financial or compliance audits.

15. Information may be disclosed to insurance companies and parties such as common carriers and warehousemen in the course of settling an employee's claim against the Department for lost or damaged property.

16. Information from this system may become available to the U.S. Department of Homeland Security (DHS) if captured in an intrusion detection system used by HHS and DHS pursuant to a DHS cybersecurity program that monitors Internet traffic to and from federal government computer networks to prevent a variety of types of cybersecurity incidents.

17. Information may be disclosed to appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, when the information disclosed is relevant and necessary for that assistance.

Records may also be disclosed to parties outside HHS, without the individual's consent, for any of the purposes authorized directly in the Privacy Act at 5 U.S.C. 552a(b)(2) and (b)(4)–(b)(12). See System of Records No. 09–40–0012 ''Debt Management and Collection System'' for additional routine use disclosures that may be made from that system, with respect to records of federal debts from this system that are used for debt management and collection purposes.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): Disclosure may be made from this system to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3), reflecting that an individual is responsible for a claim (whether current or overdue), in order to aid in the collection of the claim, typically by providing an incentive to the individual to repay the claim or debt timely, by making it part of the individual's credit record. Disclosure of records is limited to the individual's name, address, Social Security Number, and other information necessary to establish the individual's identity; the amount, status and history of the claim; and the agency or program under which the claim arose. The disclosure will be made only after the procedural requirements of 31 U.S.C. 3711(e) have been followed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, AND DISPOSING OF RECORDS IN THE SYSTEM—

STORAGE:

Electronic records are stored on computer disc pack and magnetic tape at central computer sites. Hard copy documents are stored in paper file folders.

RETRIEVABILITY:

Records are retrieved by an individual's name, Social Security Number (SSN) or Taxpayer Identification Number (TIN); and/or by document or batch identifier.

SAFEGUARDS:

- *Physical Safeguards:* Hard-copy records and electronic storage media are secured during nonbusiness hours in locked file cabinets or locked storage areas, in buildings protected by cameras and security guards.
- *Procedural Safeguards:* Authorized users are limited to employees and officials who are directly responsible for programmatic or fiscal activity, including administrative personnel, financial management personnel, computer personnel, and managers who have responsibilities for implementing HHS-funded programs. User access is restricted based on role and is controlled by unique user name and password. Passwords are required to be complex and to be changed at least every 60 days. Users protect information from the view of unauthorized persons entering the workspace while the records are in use.
- *Technical Safeguards:* Electronic records are secured with password protection and encryption. The electronic system is secured with firewalls and intrusion detection systems.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with General Records Schedule (GRS) 1.1, Financial Management and Reporting Records, which provides for records to be retained for six years after final payment or cancellation, or longer if required for business use.

SYSTEM MANAGER(S) AND ADDRESS(ES):

The System Manager for the overall system of records is the HHS Assistant Secretary for Financial Resources, 200 Independence Avenue SW.—Room 514G, Washington, DC 20201.

The System Manager for records pertaining to a particular component of HHS is the Finance Officer in the relevant finance office listed in Appendix 1.

NOTIFICATION PROCEDURE:

An individual who wishes to know if this system contains records about him or her may make a notification request. The request must be made in writing or in person and must be addressed to the relevant System Manager. The individual must show proof of identity and must provide his or her name and Social Security Number, purpose of payment or collection (travel, grant, etc.), and, if possible, the agency accounting classification.

RECORD ACCESS PROCEDURE:

Same as notification procedure. To request access to his or her record, the individual must clearly specify the record contents being sought. The individual may also request an accounting of disclosures that have been made of his or her records, if any.

CONTESTING RECORD PROCEDURE:

Same as notification procedure. To contest information about him or her, the individual must reasonably identify the record; specify the information being contested, the corrective action sought, and the reasons for requesting the correction; and provide supporting justification showing how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Information is obtained directly from individual record subjects; from contractors, private companies, or other government agencies; and from documents submitted to or received from a budget, accounting, travel, training, or other program office.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1—HHS Finance Office Locations

Centers for Disease Control and Prevention (CDC), and Agency for Toxic Substances and Disease Registry (ATSDR)
University Park, Columbia Building, 2900 Woodcock Boulevard, Atlanta, GA 30341

Centers for Medicare & Medicaid Services (CMS)
Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244

Food and Drug Administration District Offices (FDA)

Food and Drug Administration, FDA, Atlanta District Office, 60 Eighth Street NE., Atlanta, GA 30309
Food and Drug Administration, FDA, New England District Office, One Montvale Avenue, Stoneham, MA 02180
Food and Drug Administration, FDA, New Jersey District Office, 10 Waterview Boulevard, 3rd Floor, Parsippany, NJ 07054
Food and Drug Administration, FDA, Philadelphia District Office, Room 900, U.S. Customhouse, 2nd and Chestnut Streets, Philadelphia, PA 19106
Food and Drug Administration, FDA, Baltimore District Office, 6000 Metro Drive, Suite 101, Baltimore, MD 21215
Food and Drug Administration, FDA, San Juan District Office, 466 Fernandez Juncos Avenue, San Juan, PR 00901–3223
Food and Drug Administration, FDA, Chicago District Office, 550 W. Jackson Boulevard, Suite 1500 South, Chicago, IL 606601
Food and Drug Administration, FDA, Cincinnati District Office, 6751 Steger Drive, Cincinnati, OH 45237–3097
Food and Drug Administration, FDA, Minneapolis District Office, 250 Marquette Avenue, Suite 600, Minneapolis, MN 55401
Food and Drug Administration, FDA, Dallas District Office, 4040 N. Central Expressway, Suite 300, Dallas, TX 75204
Food and Drug Administration, FDA, Southwest Import District, 4040 N. Central Expressway, Suite 300, Dallas, TX 75204
Food and Drug Administration, FDA, New Orleans District Office, 6600 Plaza Drive, Suite 400, New Orleans, LA 70127
Food and Drug Administration, FDA, Kansas City District Office, 8050 Marshall Drive, Suite 205, Lenexa, KS 66214
Food and Drug Administration, FDA, Denver District Office, 6th Avenue & Kipling St., Building 20, Denver Federal Center, Denver, CO 80225–0087
Food and Drug Administration, FDA, Florida District Office, 555 Winderly Place, Suite 200, Maitland, FL 32751
Food and Drug Administration, FDA, San Francisco District Office, 1431 Harbor Bay Parkway, Alameda, CA 94502–7096
Food and Drug Administration, FDA, Los Angeles District Office, 19701 Fairchild, Irvine, CA 92612–2506
Food and Drug Administration, FDA, New York District Office, 158–15 Liberty Avenue, Jamaica, NY 11433–1034
Food and Drug Administration, FDA, Seattle District Office, 22215 26th Ave SE., Suite 210, Bothell, WA 98021
Food and Drug Administration, FDA, Headquarters Office, 10903 New Hampshire Avenue, Silver Spring, MD 20993

Indian Health Service (IHS)

Alaska Area Indian Health Service, 4141 Ambassador Drive, Anchorage, AK 99508–5928
Albuquerque Area Indian Health Service, 5300 Homestead Road NE., Albuquerque, NM 87109–1311
Bemidji Area Indian Health Service, 522 Minnesota Avenue NW., Room 119, Bemidji, MN 56601
Billings Area Indian Health Service, 2900 4th Avenue North, Billings, MT 59101
California Area Indian Health Service, 650 Capitol Mall, Suite 7–100, Sacramento, CA 95814
Great Plains Area IHS, Federal Building, 115 Fourth Avenue, Southeast, Aberdeen, SD 57401
Nashville Area Indian Health Service, 711 Stewarts Ferry Pike, Nashville, TN 37214–2634
Navajo Area Indian Health Service, P.O. Box 9020, Window Rock, AZ 86515–9020
Oklahoma City Area Indian Health Service, 701 Market Dr., Oklahoma City, OK 73114
Phoenix Area Indian Health Service, Two Renaissance Square, 40 North Central Avenue, Phoenix, AZ 85004–4424
Portland Area Indian Health Service, 1414 NW Northrup Street, Suite 800, Portland, OR 97209
Tucson Area Indian Health Service, 7900 S.J. Stock Road, Tucson, AZ 85746–7012

National Institutes of Health (NIH)

National Institutes of Health (NIH), Office of the Director (OD), Office of Management (OM), Office of Financial Management (OFM), 2115 East Jefferson Street, Rockville, MD 20892–8500

Program Support Center (PSC)

Program Support Center (PSC) Division of Fiscal Operations, 5600 Fishers Lane, Room 16–05, Rockville, MD 20857
PSC serves as the finance center for these HHS components:
1. Office of the Secretary (OS)
2. Administration for Children and Families (ACF)
3. Administration for Community Living (ACL)
4. Agency for Healthcare Research and Quality (AHRQ)
5. Health Resources and Services Administration (HRSA)
6. Office of Inspector General (OIG)
7. Substance Abuse and Mental Health Services Administration (SAMHSA)

[FR Doc. 2015–27980 Filed 11–2–15; 8:45 am]

BILLING CODE 4150–24–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR–13–055: Dissemination and Implementation Research in Health.

Date: November 20, 2015.

Time: 11:30 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: 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, 301–435–1775, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Program Project: Cell Biology.

Date: November 23–24, 2015.

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: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Small Business: HIV/AIDS Innovative Research Applications.

Date: November 24, 2015.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: 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, 301–435–1775, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR Panel: HIV and Viral Hepatitis Co-Infection.

Date: December 1, 2015.

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: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301–451–8754, *tuoj@nei.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel MH16–100:

The Role of Exosomes in HIV Neuropathogenesis.

Date: December 4, 2015.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR13–280: Program Project: Cellular Reprogramming, Pluripotency and Differentiation.

Date: December 7–8, 2015.

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: Elena Smirnova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301–435–1236, *smirnove@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 29, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–27983 Filed 11–2–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodevelopmental and Neurodegenerative Diseases.

Date: December 1, 2015.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Samuel C Edwards, Ph.D., IRG CHIEF, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; BioCARS: Structural Dynamics and Biological Mechanisms.

Date: December 1–3, 2015.

Time: 5:00 p.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Argonne National Laboratory, 9700 South Cass Avenue, Lemont, IL 60439.

Contact Person: C–L Albert Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7806, Bethesda, MD 20892, 301–435–1016, *wangca@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Biomedical Technology Research Resource for NMR Spectroscopy.

Date: December 1–3, 2015.

Time: 6:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Central Park, 1717 Broadway (54th & Broadway), New York, NY 10019.

Contact Person: Kee Hyang Pyon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7806, Bethesda, MD 20892, *pyonkh2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: December 3, 2015.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shalanda A Bynum, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3206, Bethesda, md 20892, 301–755–4355, *bynumsa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Methodologies to Enhance Understanding of HIV Associated Social Determinants.

Date: December 4, 2015.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Jose H Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

(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 28, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–27933 Filed 11–2–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

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Name of Committee: Center for Scientific Review Special Emphasis Panel; Rheumatoid Arthritis and Imaging.

Date: November 20, 2015.

Time: 11 a.m. to 3 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: Baljit S Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Psycho/Neuropathology, Lifespan Development, and STEM Education.

Date: November 23, 2015.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John H Newman, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, (301) 435–0628, *newmanjh@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Child Psychopathology and Developmental Disabilities.

Date: November 30, 2015.

Time: 1 p.m. to 3 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: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–500–5829, *sechu@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 28, 2015.

Sylvia Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–27870 Filed 11–2–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health, National Institute on Drug Abuse (NIDA) Announcement of Requirements and Registration for ''Addiction Research: There's an App for That'' Challenge

Authority: 15 U.S.C. 3719.

SUMMARY: The National Institute on Drug Abuse (NIDA), one of the components of the National Institutes of Health (NIH), announces the Challenge, ''Addiction Research: There's an App for that''. With this Challenge, NIDA aims to develop novel mobile applications (apps) for future addiction research explicitly created on Apple Inc.'s ResearchKit framework. ResearchKit is open-source software which makes it easy for researchers and developers to create apps for specific biomedical research questions by circumventing development of custom code. Contestants will create the solicited app for use by addiction researchers to engage mobile device users in future society-changing research.

DATES: The Challenge begins November 3, 2015.

Submission Period: November 3, 2015 to April 29, 2016, 11:59 p.m., ET.

Judging Period: May 2, 2016 to July 29, 2016.

Winners Announced: August 1, 2016.

FOR FURTHER INFORMATION CONTACT: Elena Koustova, Ph.D., MBA, Director, Office of Translational Initiatives and Program Innovations (OTIPI), NIDA Challenge Manager, National Institute on Drug Abuse (NIDA), 6001 Executive Blvd. Room 4286, MSC 9555 Bethesda, MD 20892–9555 Phone: (301) 496–8768 Email: *elena.koustova@nih.gov*.

SUPPLEMENTARY INFORMATION:

The Institute's Statutory Authority to Conduct the Challenge. NIDA is conducting this challenge under the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science (COMPETES) Reauthorization Act of 2010, 15 U.S.C. 3719. This Challenge is consistent with and advances the mission of NIDA as described in 42 U.S.C. 285o. The general purpose of NIDA is to conduct and support biomedical and behavioral research, health-services research, research training, and health-information dissemination with respect to the prevention of drug abuse and the treatment of drug abusers. App developed as a result of this Challenge will help NIDA to gain strides in behavioral addiction research. After winning apps are selected, NIDA may announce subsequent funding programs for a future research study with real human subjects to engage the widest possible community of participants—''citizen scientists.'' These future research studies will help researchers to better understand drug abuse and addiction.

Subject of Challenge

Background: The problem of drug abuse affects almost every community and family and yet it remains an uncomfortable subject for discussion. Each year, substance abuse causes high rates of injuries and mortality among Americans and plays a role in many major social problems, such as drugged driving, violence, child abuse, stress, crime, and problems with employment. It harms unborn babies, destroys families, and contributes to homelessness. The societal burden caused by substance use disorders exceeds half a trillion dollars yearly. This cost to society is greater than other chronic conditions such as diabetes ($131.7 billion) and cancer ($171.6 billion). NIDA sponsors the majority of addiction-related scientific research in the world. NIDA-funded researchers seek to answer important scientific questions about the paths people take to avoid or to succumb to drug addiction, about the mechanisms and pathways involved in substance-use disorders, and about new tools and techniques for prevention and treatment.

Because the problems stemming from drug abuse and addiction affect almost every community and family to some degree, NIDA issues this Challenge with the hope that Contestants will actively mobilize around the need to know more about the roots of drug abuse and addiction. Specifically, NIDA is seeking to engage communities to envision and to create an app which will help advance scientific research in areas of nicotine, opioids, cannabinoids (including marijuana), methamphetamines, and prescription drug use. The Institute is also interested in further understanding abstinence and wellness as it relates to drug addiction.

The causes and consequences of addiction are multi-faceted, involving biological, behavioral, social, cultural, economic, and environmental factors. These factors likely interact, with no single factor exerting substantial independent influence on drug use and addiction risk. Unfortunately, most research addresses these factors separately because it is difficult to collect data on the large numbers of participants needed to understand the multi-factor relationships. However, this is changing. Mobile technology offers the capacity to recruit large numbers of participants, in diverse and distant places and to collect prospective data on a broad range of variables as these study participants go about their daily lives. This approach has already led to advances in addiction research. Mobile assessment has extended to geolocation and physiological monitoring, with promising results for predicting and detecting drug use in the field.

As exciting as these findings have been, however, the scope of studies and the types and number of participants studied have been limited by researchers' access to mobile technology. The problem has been exacerbated by a gap in communication between addiction researchers and software and hardware developers. In addition, NIDA-sponsored mobile tools and technologies are often afflicted by a lack of interoperability and by non-sustainability beyond the grant-funding period.

Fortunately, those concerns can be successfully addressed by the inventive uses of customizable research platforms developed by the established informatics technology companies. The recently unveiled ResearchKit developed by Apple Inc. is the available platform designed specifically for

biomedical research (*https://www.apple.com/researchkit/*). NIDA's choice of ResearchKit as the platform does not reflect any endorsement of Apple Inc. and Apple's products in the Challenge; rather, it is a response to Apple's release of a set of tools specifically intended for use in health research.

Challenge Goals: NIDA hopes this Challenge will help to promote the development of innovative research apps created on Apple's ResearchKit framework for future addiction studies. Research questions to be answered could include, but are not limited to: Would tracking lifestyle choices, behaviors, nutrition, stress, social participation, work, school, home, neighborhood, genetics, exposure to technology, etc. help to understand why some people manage to stay away from drug abuse and addiction? What contributes to the choice to abuse prescription drugs? How can we systematically collect the experience of patients recovering from addiction? Are there innovative approaches to recording patients' experiences of impact and burden of drug addiction over time? Can the benefits of reduced drug use be meaningfully detected? Can we reveal and collect the participant-identified disease impacts and the preferences for treatment impacts to identify meaningful, significant, perhaps, novel, and potential measures of benefit?

It is critical to note that the apps developed as a result of this Challenge are to be explicitly created for future scientific research purposes, and not for self-help, education, or self-wellness monitoring like other apps already available on iTunes. The submissions must not contain any data about real people, and the Contestants must not use data from or about real people in the development or testing of the apps. However, the app should be designed such that it could be used in future clinical research studies with real human subjects.

Major ethical and legal issues that have to be addressed at every step of the way should include privacy (especially in terms of the end-user's experience as he or she interacts with the app) and confidentiality (the assurance that end-users' data will be seen and used only in the ways they want). Contestants are responsible for developing and coding the app so that its future use in a study with real human research subjects would be compliant with all applicable federal, state, local, and institutional laws, regulations, and policies. These include, but are not limited to, Substance Abuse Confidentiality Regulations at 42 CFR part 2, Health Information Portability and Accountability Act (HIPAA) protections, Department of Health and Human Services (HHS) Protection of Human Subjects regulations at 45 CFR part 46, and Food and Drug Administration (FDA) regulations.

Rules for Participating in the Challenge. The Challenge is open to any Contestant 13 years of age or older. A Contestant may be (i) an entity or (ii) an individual or group of individuals (*i.e.,* a team assembled with the purpose of participating in this Challenge), each of whom is a U.S. citizen or permanent resident of the United States. Individuals who are younger than 18 must have their parent or legal guardian complete the *Parental Consent Form* found at *http://www.drugabuse.gov/sites/default/files/parentalconsentform.pdf.*

(1) To be eligible to win a prize under this Challenge, an individual or entity:

a. Shall have registered to participate in the Challenge under the rules promulgated by NIDA as published in this Notice;

b. Shall have complied with all the requirements set forth in this Notice;

c. In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States. However, non-U.S. citizens and non-permanent residents can participate as a member of a team that otherwise satisfies the eligibility criteria. Non-U.S. citizens and non-permanent residents are not eligible to win a monetary prize (in whole or in part). Their participation as part of a winning team, if applicable, may be otherwise recognized when the results are announced.

d. May not be a Federal entity;

e. May not be a Federal employee acting within the scope of the employee's employment and further, in the case of HHS employees, may not work on their submission(s) during assigned duty hours;

f. May not be an employee of the NIH, a judge of the challenge, or any other party involved with the design, production, execution, or distribution of the Challenge or the immediate family of such a party (*i.e.,* spouse, parent, step-parent, child, or step-child).

(2) Federal grantees may not use Federal funds to develop their Challenge submissions unless use of such funds is consistent with the purpose of their grant award and specifically requested to do so due to the Challenge design, and as announced in the **Federal Register**.

(3) Federal contractors may not use Federal funds from a contract to develop their Challenge submissions or to fund efforts in support of their Challenge submission.

(4) Submissions must not infringe upon any copyright or any other rights of any third party. Each Contestant warrants that he or she is the sole author and owner of the work and that the work is wholly original.

(5) By participating in this Challenge, each Contestant (whether competing singly or in a group) and entity agrees to assume any and all risks and waive claims against the Federal government and its related entities (as defined in the COMPETES Act), except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this Challenge, whether the injury, death, damage, or loss arises through negligence or otherwise.

(6) Based on the subject matter of the Challenge, the type of work that it will possibly require, as well as an analysis of the likelihood of any claims for death, bodily injury, property damage, or loss potentially resulting from Challenge participation, no Contestant (whether competing singly or in a group) or entity participating in the Challenge is required to obtain liability insurance or demonstrate financial responsibility in order to participate in this Challenge.

(7) By participating in this Challenge, each Contestant (whether competing singly or in a group) and entity agrees to indemnify the Federal government against third party claims for damages arising from or related to Challenge activities.

(8) A Contestant or entity shall not be deemed ineligible because the Contestant or entity used Federal facilities or consulted with Federal employees during the Challenge if the facilities and employees are made available to all individuals and entities participating in the Challenge on an equitable basis.

(9) By participating in this Challenge, each Contestant (whether participating singly or in a group) and entity grants to the NIH/NIDA an irrevocable, paid-up, royalty-free nonexclusive, sublicensable worldwide license to post, link to, share, use and display publicly on the Web the submission, including the architectural design of the app and any other information necessary for a third-party to use, adapt, improve or otherwise modify the app. Each Contestant will retain all other intellectual property rights in their submissions, as applicable.

(10) NIDA reserves the right, in its sole discretion, to (a) cancel, suspend, or modify the Challenge, (b) not award any prizes if no entries are deemed worthy, and (c) to disqualify from competition any submission that contains or uses data about real people or is deemed, in the judging panel's discretion, inappropriate, offensive, defamatory, or demeaning.

(11) Each Contestant (whether participating singly or in a group) or entity agrees to follow all applicable federal, state, and local laws, regulations, and policies.

(12) Each Contestant (whether participating singly or in a group) and entity participating in this Challenge must comply with all terms and conditions of these rules, and participation in this Challenge constitutes each such contestant's full and unconditional agreement to abide by these rules. Winning is contingent upon fulfilling all requirements herein.

Registration Process for Contestants. To participate in this Challenge visit *http://nida.ideascale.com,* a NIDA Challenge platform provider. Alternatively, visit *www.challenge.gov* and search for ''Addiction Research: There's an App for that'' and follow the instructions. NIDA encourages established addiction researchers to share the ideas via the Forum (*http://nida.ideascale.com*) and seek collaboration(s) with app developers and engineers to create the winning research apps.

Submission Requirements. All submissions must be in English. The Contestants must not use HHS's logo or official seal or the logo of NIH or NIDA in the submissions, and must not claim federal government endorsement.

Due to sensitivities surrounding addictions information, only fictitious data may be used for app development. The submission must not contain any data from or about real people, and the Contestant must not use data from or about real people in the development or testing of the app. However, the app should be designed such that it could be used in future potential clinical research studies with real human subjects. Entries that include data from or about real people will be disqualified.

Each submission for this Challenge requires a complete ''Submission Package.'' The Submission Package includes:

(1) A white paper describing the app built upon the proposed design of future scientific research studies. The white paper must describe a scientific research agenda and study design that could be undertaken using the developed app in future human subject research. Components of the white paper include, but are not limited to:

a. Research design or conceptual framework
b. Research agenda
c. Description of ResearchKit modules and add-apters incorporated and otherwise considered
d. Statement about compliance with substance abuse and other applicable laws and regulations
e. Data collection and management plan
f. Recruitment and retention advantages of the proposed approach

The white paper must consist of a PDF file, not contain any information directly identifying the Contestants. The PDF document must be formatted to be no larger than 8.5″ by 11.0″, with at least 1 inch margins. The white paper must be no more than 12 pages long. Font size must be no smaller than 11 point Arial.

(2) A video of the app prototype. A brief demo video (or its link to YouTube) must be no more than five (5) minutes and clearly demonstrate the app functionality. The Contestant must have permission to use all content in the video, including footage, music and images. The video must not contain any information or images directly identifying the Contestant.

(3) App software. The working software must operate on a mobile device using Apple's ResearchKit framework. The Contestants must provide a way for the NIDA to test the app such as a weblink, installation file, or a shared test build. The submission may be disqualified if the software application fails to function as expressed in the prototype description submitted by the Contestant.

Amount of the Prize; Award Approving Official. Up to three monetary prizes will be awarded: $50,000 for 1st Place, $30,000 for 2nd Place, and $20,000 for 3rd Place for a total prize award pool of up to $100,000. The names of the winners and the titles of their submissions will be posted on the NIDA Web site. The award approving official for this Challenge is the Director of the National Institute on Drug Abuse.

Payment of the Prize. Prizes awarded under this Challenge will be paid by electronic funds transfer and may be subject to Federal income taxes. The NIH/NIDA will comply with the Internal Revenue Service withholding and reporting requirements, where applicable.

Basis Upon Which the Winner Will Be Selected. The judging panel will make recommendations to the award approving official based upon the following 8 criteria. Each criterion will be scored with the maximum of 5 points.

(1) Quality of the research agenda (0–5 points): How well is the research design or conceptual framework developed? Is it unique and clinically meaningful? Does the research agenda describe a logical, feasible plan and timeframe for addressing addiction knowledge gaps?

(2) Proposed ResearchKit modules (0–5 points): How many existing features of the ResearchKit does the app use? How are the modules applicable for conducting future addiction research? Does the Contestant consider creating new modules?

(3) Add-apters (0–5 points): Does the app utilize novel add-apters? How are the proposed add-apters applicable to the future research study?

(4) Compliance with applicable legal policies. (0–5 points): Although the competition requires that the submission must not contain any research data about real individuals, and the Contestants must not use real data in the development of the app, the submission will be evaluated on whether the app design and research agenda would be compliant with all applicable federal, state, local, and institutional laws, regulations, and policies. These include, but are not limited to, Substance Abuse Confidentiality Regulations at 42 CFR part 2, HIPAA protections, HHS Protection of Human Subjects regulations at 45 CFR part 46, and FDA regulations. Would the app ensure compliance with consent requirements for future potential addiction studies? Would the app clearly explain study participation to the user? Would data management be safe and secure?

(5) Study participant's engagement (0–5 points): How well would the app attract and retain human subject engagement? Does it assure the high level of human subject participation?

(6) Durability of study participation (0–5 points): How reasonable is the plan for retaining human subjects and data collection over the duration of the future, proposed research study?

(7) Clarity of the app context (0–5 points): Will the app provide a transparent, engaging user experience for both addiction researchers and human subjects? Would the future human subjects of research be able to easily track their overall progress during the research study? Would future human subjects of research know what information is being collected, why, and what will happen with their data?

(8) Data quality for researchers (0–5 points): Is it easy for addiction researchers to monitor and manage the

overall progression of the research study? Is the data management plan appropriate? Are data clearly presented to the researcher?

The evaluation process will begin by anonymizing and removing those that are not responsive to this Challenge or not in compliance with all rules of participation eligibility. Submissions that are responsive and in compliance will next undergo a review by federal employees with expertise in the relevant areas of science and executive scientific advisors. A panel of judges consisting of federal employees will then score responsive and compliant submissions entries in accordance with the judging criteria outlined above. Final recommendations will be determined by a vote of the judges based on score. Scores from each criterion will be weighted equally, but failure to meet a minimum standard for any one criterion might disqualify an application. The score for each submission will be the sum of the scores from each of the 5 voting judges, for a maximum of 200 points.

Additional Information

What is ResearchKit? ResearchKit is an open-source software kit designed specifically for medical and health research; it simplifies the creation of iPhone apps that can help physicians and scientists gather data from willing participants. The framework allows researchers to circumvent the development of custom code for common tasks such as sharing, storage, and syncing of research data. It helps to create apps to recruit human subjects in research, present informed-consent materials, create surveys and tasks, and monitor sensors interoperable with smartphone technology. ResearchKit works seamlessly with Apple HealthKit, a suite of applications that can interact with the iPhone accelerometer, microphone, gyroscope, GPS sensors, and external hardware such as glucometers, inhalers, and other existing and newly developed sensors. These capabilities could help monitor a participant's gait, motor impairment, physical fitness, speech, and memory, to name just a few. Additional hardware extensions (add-apters) are frequently developed and available.

It is important to note that the ResearchKit framework does not include a data management solution. The framework can be used with a data management solution only after IRB approval of the human health study with consideration of the provider's data privacy and security practices. Apple's ResearchKit debuted in March 2015 with five opt-in health research apps, now available for free public download. For more information about Apple's ResearchKit and the developed apps visit *https://www.apple.com/researchkit/* and *http://nida.ideascale.com*.

Features and modules currently accessible and compatible with Apple's ResearchKit: Apple's iPhones have a number of built-in sensors, including Touch ID, Barometer, Accelerometer, Gyroscope, Proximity Sensor, and Ambient Light Sensor. The Touch ID is a biometric technology that provides user identification through a finger scanner, the Barometer measures atmospheric pressure, the Accelerometer measure the tilting motion and orientation of the iPhone, and the Three-Axis Gyroscope enables 3-axis angular acceleration around the X, Y and Z axes, enabling precise calculation of yaw, pitch, and roll. The Proximity Sensor deactivates the display and touchscreen when the phone is brought near the face during a call and the Ambient Light Sensor adjusts the display brightness. All sensors are available for the iPhone 6 Plus, iPhone 6, iPhone 5S and iPhone 5. The only exceptions are the Barometer sensor, which is only available for the iPhone 6 Plus, and iPhone 6, and the Touch ID sensor, which is only available for the iPhone 6 Plus, iPhone 6, and iPhone 5S.

In addition to internal sensors, there are a number of add-apters which work with existing iPhones. The add-apters can measure pulse rate, breathing pattern, blood pressure, blood oxygen saturation, heart rate variability, galvanic skin response, and glucose concentration, and can even help detect ear infections and track inhaler medication use. Some add-adapters can be directly purchased through iTunes or third-party vendors; others must be purchased through a physician. Based on the type of adapter, prices can vary from $6 to $249.

Dated: October 27, 2015.

Nora D. Volkow,

Director, National Institute on Drug Abuse, National Institutes of Health.

[FR Doc. 2015–27939 Filed 11–2–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Asthma, Pulmonary Fibrosis and Inflammation.

Date: November 3–4, 2015.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, MD 20892, 301–451–8754, *nussb@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA Application in Infectious Diseases and Microbiology.

Date: November 9, 2015.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 29, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–27984 Filed 11–2–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.samhsa.gov/workplace.*

FOR FURTHER INFORMATION CONTACT: Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 7–1051, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

HHS-Certified Instrumented Initial Testing Facilities

Dynacare, 6628 50th Street NW., Edmonton, AB Canada T6B 2N7, 780–784–1190 (Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories:

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400 (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc., Aegis Analytical Laboratories)

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130 (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center—Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare*, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630 (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Fortes Laboratories, Inc., 25749 SW Canyon Creek Road, Suite 600, Wilsonville, OR 97070, 503–486–1023

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE. 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly:

Centinela Hospital Airport Toxicology Laboratory)
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891 x7
Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840
Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370 (Formerly: SmithKline Beecham Clinical Laboratories)
Redwood Toxicology Laboratory, 3700650 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159
Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027
STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438
US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Summer King,

Statistician.

[FR Doc. 2015–27872 Filed 11–2–15; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5849–N–06]

Notice of a Federal Advisory Committee Manufactured Housing Consensus Committee Technical Systems Subcommittee Teleconference

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of a Federal Advisory Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a teleconference meeting of the Manufactured Housing Consensus Committee (MHCC), Technical Systems Subcommittee. The teleconference meeting is open to the public. The agenda provides an opportunity for citizens to comment on the business before the MHCC.

DATES: The teleconference meeting will be held on December 2, 2015, 1:00 p.m. to 4:00 p.m. Eastern Daylight Time (EDT). The teleconference numbers are: US toll-free: 1–866–622–8461, Participant Code: 4325434.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator and Designated Federal Official (DFO), Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Room 9166, Washington, DC 20410, telephone 202–708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5. U.S.C. App. 10(a)(2) through implementing regulations at 41 CFR 102–3.150. The MHCC was established by the National Manufactured Housing Construction and Safety Standards Act of 1974, (42 U.S.C. 5401 *et seq.*) as amended by the Manufactured Housing Improvement Act of 2000 (Pub. L. 106–569). According to 42 U.S.C. 5403, as amended, the purposes of the MHCC are to:

- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards;
- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring; and
- Be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation.

The MHCC is deemed an advisory committee not composed of Federal employees.

Public Comment: Citizens wishing to make oral comments on the business of the MHCC are encouraged to register by or before November 24, 2015, by contacting Home Innovation Research Labs., 400 Prince Georges Boulevard, Upper Marlboro, MD 20774; Attention: Kevin Kauffman, or email to: *MHCC@homeinnovation.com* or call 1–888–602–4663. Written comments are encouraged. The MHCC strives to accommodate citizen comments to the extent possible within the time constraints of the meeting agenda. Advance registration is strongly encouraged. The MHCC will also provide an opportunity for public comment on specific matters before the Technical Systems Subcommittee.

Tentative Agenda:

December 2, 2015, from 1:00 p.m. to 4:00 p.m. Eastern Daylight Time (EDT).

I. Call to Order and Roll Call
II. Opening Remarks: Subcommittee Chair and DFO
III. Approve Minutes from December 4, 2014, Technical Systems Subcommittee
IV. New Business:
- Log 116—NFPA 54 National Fuel Gas Code
- Log 118—UL 60335–2–40, Safety of Household and Similar Electrical Appliances, Part 2–34: Particular Requirements for Motor-Compressors

V. Referenced Standards for Review
- ANSI/ASHRAE 62.2, Ventilation and Acceptable indoor Air Quality in Low-Rise Residential buildings
- ASTM E96, Standard Test Methods For Water Vapor Transmission of

Materials
• NFPA 70, National Electrical Code
VI. Open Discussion
VII. Public Comments
VIII. Adjourn 4:00 p.m.

Dated: October 28, 2015.

Pamela Beck Danner,

Administrator, Office of Manufactured Housing Programs.

[FR Doc. 2015–28001 Filed 11–2–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2015–N198; FXES11120100000–167–FF01E00000]

Proposed Safe Harbor Agreement for the Northern Spotted Owl and Draft Environmental Assessment, Roseburg Resources Company and Oxbow Timber I, LLC, Lane County, OR

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received, from Roseburg Resources Company (RRC) and Oxbow Timber I, LLC (Oxbow), an application for an enhancement of survival permit (permit) for the federally threatened northern spotted owl under the Endangered Species Act of 1973, as amended (ESA). The permit application includes a draft safe harbor agreement (SHA) addressing access to RRC and Oxbow lands for the survey and removal of barred owls as part of the Service's Barred Owl Removal Experiment in Lane County, Oregon. The Service also announces the availability of a draft environmental assessment (EA) that has been prepared in response to the permit application in accordance with requirements of the National Environmental Policy Act (NEPA). We are making the permit application, including the draft HCP and the draft EA, available for public review and comment.

DATES: To ensure consideration, written comments must be received from interested parties by December 3, 2015.

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Roseburg Resources Company and Oxbow Timber I, LLC draft SHA and the draft EA.

• *Internet:* Documents may be viewed and downloaded on the Internet at *http://www.fws.gov/ofwo/.*

• *Email: barredowlsha@fws.gov.* Include ''RRC SHA'' in the subject line of the message.

• *U.S. Mail:* Robin Bown, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 SE 98th Ave., Suite 100, Portland, OR 97266.

• *Fax:* 503–231–6195.

• *In-Person Drop-off, Viewing, or Pickup:* Call 503–231–6179 to make an appointment (necessary for viewing or pickup only) during regular business hours at the U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 SE 98th Ave., Suite 100, Portland, OR 97266. Written comments can be dropped off during regular business hours at the above address on or before the closing date of the public comment period (see **DATES**).

FOR FURTHER INFORMATION CONTACT: Robin Bown, U.S. Fish and Wildlife Service (see **ADDRESSES**), telephone 503–231–6179. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: RRC and Oxbow have applied to the Service for an enhancement of survival permit under section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*). The permit application includes a draft SHA. The Service has drafted an EA addressing the effects of the draft SHA and the proposed issuance of a permit.

The SHA covers approximately 9,000 acres of forest lands owned by Oxbow and 400 acres of forest lands owned by RRC within the treatment portion of the Oregon Coast Ranges Study Area in Lane County, Oregon. The proposed term of the permit and the SHA is 10 years. In return for permission to access their lands for barred owl surveys and removal in support of the Service's Barred Owl Removal Experiment, the permit would authorize incidental take of the threatened northern spotted owl (*Strix occidentalis caurina*) on currently unoccupied, non-baseline spotted owl sites if they become occupied during the term of the permit. The permit would also authorize incidental take of the spotted owl as a result of management activities during the term of the permit.

Background

Under a SHA, participating landowners voluntarily undertake activities on their property to benefit species listed under the ESA (16 U.S.C. 1531 *et seq.*). SHAs, and the subsequent enhancement of survival permits that are issued to participating landowners pursuant to section 10(a)(1)(A) of the ESA, encourage private and other non-Federal property owners to implement conservation actions for federally listed species by assuring the landowners that they will not be subjected to increased property use restrictions as a result of their conservation efforts.

These assurances allow the property owner to alter or modify the enrolled property to agreed-upon baseline conditions, even if such alteration or modification results in the incidental take of a listed species. The baseline conditions represent the existing levels of use of the property by species covered in the SHA. SHA assurances depend on the property owner complying with obligations in the SHA and the terms and conditions of the permit. The SHA's net conservation benefits must be sufficient to contribute, either directly or indirectly, to the recovery of the covered listed species. Enrolled landowners may make lawful use of the enrolled property during the permit term and may incidentally take the listed species named on the permit as long as that take does not modify the agreed-upon net conservation benefit to the species.

Application requirements and issuance criteria for enhancement of survival permits for SHAs are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22(c). The Service's Safe Harbor Policy (64 FR 32717, June 17, 1999) and the Safe Harbor Regulations (68 FR 53320, September 10, 2003; and 69 FR 24084, May 3, 2004) are available at *http://www.fws.gov/endangered/laws-policies/regulations-and-policies.html.*

Safe Harbor Agreement

RRC and Oxbow submitted an application for an enhancement of survival permit under the ESA to authorize incidental take of the federal-threatened northern spotted owl. The permit application includes a draft SHA between RRC and Oxbow, and the Service. The SHA addresses access to support the Service's Barred Owl Removal Experiment (USFWS 2013a) in the Oregon Coast Ranges Study Area (Study Area), Lane County, Oregon.

The SHA covers RRC and Oxbow lands within the treatment area of the Study Area. The treatment area is composed lands owned by many different landowners, including 58 percent Federal lands, 13 percent State lands, and 29 percent private lands. This is the focus of the SHA because this is the area where the removal of barred owls under the experiment may lead to reoccupancy of sites that are not currently occupied by spotted owls. If barred owl removal leads to the reoccupancy of sites by spotted owls, in the absence of this permit some

restrictions or limitations on forest management activities could occur.

Take would be allowed for forest operation and management activities, including but not limited to road use, road construction, road maintenance, and the normal management activities associated with managing private forestland for timber production, such as timber harvest, planting, spraying, fertilizing, monitoring, measuring, patrolling, and fighting wildfire.

The goal of both RRC and Oxbow is to manage their timberlands for timber production, providing economic, community and stewardship values on a long-term sustained-yield basis while meeting State and Federal regulatory requirements. The RRC and Oxbow lands within the Study Area are an important part of each company's overall operating plans from both a short-term and long-term perspective. RRC and Oxbow are anticipating significant changes and fluctuations regarding spotted owl occupancy status of well surveyed sites and areas on or near RRC and Oxbow lands in the treatment area after barred owl removal occurs and potential short term regulatory impacts to operation plans after barred owl removal in the treatment area occurs.

The purpose of RRC and Oxbow participation is to demonstrate good-faith cooperation with the Service regarding this recovery action while maintaining a reasonable level of certainty regarding the anticipated biological response and subsequent regulatory requirements impacting both forest operations and management during and after the experiment period for themselves, and to the maximum extent allowable under the ESA, adjacent landowners.

To support the Barred Owl Removal Experiment, RRC and Oxbow will provide the researchers access to RRC and Oxbow lands to survey barred owls throughout the Study Area and to remove barred owls located on RRC and Oxbow lands within the treatment portion of the Study Area. In addition, RRC and Oxbow will maintain habitat to support actively nesting spotted owls on any reoccupied non-baseline sites during the nesting season.

Proposed Action

The Service proposes to enter into the SHA and to issue an enhancement of survival permit to RRC and Oxbow for incidental take of the northern spotted owl caused by covered activities, if permit issuance criteria are met. The permit would have a term of 10 years.

As a result of the continued monitoring of spotted owls on RRC and Oxbow lands as part of the ongoing spotted owl surveys conducted under the Northwest Forest Plan Monitoring program, we have strong annual survey data for the area that may be included in the SHA and can establish a baseline based on the estimated current occupancy status of each spotted owl site. Any spotted owl sites with a response from at least one resident spotted owl between 2013 and present are considered in the baseline and would not be authorized to be taken. Based on this approach, there are nine baseline spotted owl sites in the treatment portion of the Oregon Coast Ranges Study Area where RRC or Oxbow own land or have operations easements or agreements.

The conservation benefits for the northern spotted owl under the SHA arise from RRC and Oxbow allowing access to their roads and lands for barred owl surveys and, within the treatment area, barred owl removal. In this landscape of multiple landowners, access to interspersed non-Federal lands is important to the efficient and effective completion of the Barred Owl Removal Experiment within a reasonable timeframe.

The impact of the increase in non-native barred owl populations as they expand in the range of the spotted owls has been identified as one of the primary threats to the continued existence of the spotted owl. The Recovery Plan for the Northern Spotted Owl includes Recovery Action 29—''Design and implement large-scale control experiments to assess the effects of barred owl removal on spotted owl site occupancy, reproduction, and survival'' (USFWS 2011, p. III–65). The Service developed the Barred Owl Removal Experiment to implement this Recovery Action, completing the Environmental Impact Statement and Record of Decision in 2013 (USFWS 2013a and b). The Service selected a study conducted on four study areas, including the Oregon Coast Ranges Study Area. Timely results from this experiment are crucial for informing development of a long-term barred owl management strategy, itself essential to the conservation of the northern spotted owl.

While the Study Area is focused on Federal lands, it still contains significant interspersed non-Federal lands. To complete the experiment in the most efficient and complete manner, the Service requires access on non-public roads and the ability to remove barred owls on the non-Federal lands within the treatment area. While the experiment is possible without access to non-Federal lands, failure to remove barred owls from portions of the treatment area could reduce the power of the experiment to detect any changes in spotted owl population dynamics resulting from the removal of barred owls and potentially extend the duration of the experiment. The Service has repeatedly indicated the need to gather this information in a timely manner. Failure to access non-Federal lands could delay the results.

Incidental take of spotted owls under this SHA would likely be in the form of harm from forest operation activities that result in habitat degradation, or harassment from forest management activities that cause disturbance to spotted owls. Incidental take in the form of harassment by disturbance is most likely to occur near former spotted owl nest sites if they become reoccupied. Harm and harassment could occur during timber operations and management that will continue during the permit term. RRC and Oxbow will perform routine harvest, road maintenance and construction activities, including rock pit development, herbicide spraying and soil fertilization that may disturb spotted owls.

Net Conservation Benefits

RRC and Oxbow own lands in the treatment portion of the Oregon Coast Ranges Study Area. Access to the RRC and Oxbow lands is important to the efficient and effective completion of the Barred Owl Removal Experiment within a reasonable timeframe. All of the currently occupied spotted owl sites are within the baseline and no take of these sites is authorized under this SHA. If barred owl removal does allow spotted owls to reoccupy sites that are not currently occupied (non-baseline), RRC and Oxbow will be allowed to take these spotted owls. It is highly unlikely that these sites would ever be reoccupied by spotted owls without the removal of barred owls.

The removal of barred owls on the Study Area will end within 10 years. The Service anticipates that, once released from the removal pressure, barred owl populations will rebound to pre-treatment levels within 3 to 5 years. This is likely to result in the loss of the newly reoccupied sites. Therefore, any occupancy of these sites is likely to be temporary and short term.

The SHA allows for the take of spotted owls on 19 non-baseline sites in the treatment area of the Study Area if these sites become reoccupied during the barred owl removal study. Take of non-baseline owl sites that may be reoccupied can result from disturbance from forest management activities or habitat loss. For 6 of the 19 sites, take

is anticipated primarily from disturbance. Take resulting from disturbance is temporary, short term, and only likely to occur if activities occur very close to nesting spotted owls. None of the 48 historic spotted owl site centers in the treatment area occur on RRC or Oxbow lands, and only three are close enough that forest management activities on RRC or Oxbow lands could result in some disturbance of the sites if these site centers were reoccupied.

For the remaining 13 sites, take may occur as a result of disturbance or habitat removal if they become reoccupied during the experiment. Loss of habitat has longer term effects, and the degree to which it may affect the study depends on the amount of potential habitat loss compared to the condition of the spotted owl site. RRC and Oxbow are minor owners on seven of these sites with less than 10 percent of the land ownership and less than five percent of the remaining suitable habitat on these seven sites. Federal lands contain the majority of the remaining suitable spotted owl habitat on six of these seven sites. Thus, even if all non-baseline spotted owl sites are reoccupied by spotted owls, and RRC and Oxbow remove all habitat remaining on their lands within these sites under their permit, many of these sites are likely to remain viable at some level as a result of habitat remaining on other landowners, including the Federal agencies.

The primary conservation value of the Barred Owl Removal Experiment is the information it provides on the efficacy of removal as a tool to manage barred owl populations for the conservation of the spotted owl. This information is crucial to the development of a long-term barred owl management strategy, itself essential to the conservation of the northern spotted owl. In this landscape of multiple landowners, access to interspersed non-Federal lands is important to the efficient and effective completion of the Barred Owl Removal Experiment within a reasonable timeframe. The SHA under which RRC and Oxbow allow access to their roads and lands for barred owl surveys and, within the treatment area, barred owl removal contributes significantly to the conservation value of this experiment. Thus, the take of spotted owls on the temporarily reoccupied sites is more than offset by the value of the information gained from the experiment and its potential contribution to a long-term barred owl management strategy. This SHA advances the recovery of the spotted owl.

National Environmental Policy Act Compliance

The development of the draft SHA and the proposed issuance of an enhancement of survival permit is a Federal action that triggers the need for compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) (NEPA). We have prepared a draft EA to analyze the impacts of permit issuance and implementation of the SHA on the human environment in comparison to the no-action alternative.

Public Comments

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We request data, new information, or suggestions from the public, other concerned governmental agencies, Tribes, the scientific community, industry, or any other interested party on our proposed Federal action. In particular, we request information and comments regarding the following issues:

1. The direct, indirect, and cumulative effects that implementation of the SHA could have on endangered and threatened species;
2. Other reasonable alternatives consistent with the purpose of the proposed SHA as described above, and their associated effects;
3. Measures that would minimize and mitigate potentially adverse effects of the proposed action;
4. Identification of any impacts on the human environment that should have been analyzed in the draft EA pursuant to NEPA;
5. Other plans or projects that might be relevant to this action;
6. The proposed term of the enhancement of survival permit and whether the proposed SHA would provide a net conservation benefit to the covered species; and
7. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation we used in preparing the draft EA, will be available for public inspection by appointment, during normal business hours, at our Oregon Fish and Wildlife Office (see **ADDRESSES**).

Next Steps

We will evaluate the draft SHA, associated documents, and any public comments we receive to determine whether the permit application and the EA meet the requirements of section 10(a) of the ESA and NEPA, respectively, and their respective implementing regulations. We will also evaluate whether issuance of an enhancement of survival permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation on the proposed permit action. If we determine that all requirements are met, we will sign the proposed SHA and issue an enhancement of survival permit under section 10(a)(1)(A) of the ESA to the applicant, RRC and Oxbow, for incidental take of the northern spotted owl caused by covered activities in accordance with the terms of the permit and the SHA. We will not make our final decision until after the end of the 30-day public comment period, and we will fully consider all comments and information we receive during the public comment period.

Authority

We provide this notice pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: October 21, 2015.

Richard Hannan,

Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 2015–27947 Filed 11–2–15; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2015–N193; FXES11120200000–167–FF02ENEH00]

Receipt of Incidental Take Permit Applications for Participation in the Oil and Gas Industry Conservation Plan for the American Burying Beetle in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: Under the Endangered Species Act, as amended (Act), we, the U.S. Fish and Wildlife Service, invite the public to comment on incidental take permit applications for take of the federally listed American burying beetle resulting from activities associated with the geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of oil and gas well field infrastructure within Oklahoma. If approved, the permits would be issued under the approved *Oil and Gas Industry Conservation Plan Associated with Issuance of Endangered Species Act Section 10(a)(1)(B) Permits for the American Burying Beetle in Oklahoma* (ICP).

DATES: To ensure consideration, written comments must be received on or before December 3, 2015.

ADDRESSES: You may obtain copies of all documents and submit comments on the applicant's ITP application by one of the following methods. Please refer to the permit number when requesting documents or submitting comments.

- *U.S. Mail:* U.S. Fish and Wildlife Service, Division of Endangered Species—HCP Permits, P.O. Box 1306, Room 6034, Albuquerque, NM 87103.
- *Electronically: fw2_hcp_permits@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, Branch Chief, by U.S. mail at Environmental Review, P.O. Box 1306, Room 6034, Albuquerque, NM 87103; or by telephone at 505–248–6651.

SUPPLEMENTARY INFORMATION:

Introduction

Under the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.;* Act), we, the U.S. Fish and Wildlife Service, invite the public to comment on incidental take permit (ITP) applications for take of the federally listed American burying beetle (*Nicrophorus americanus*) resulting from activities associated with geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of oil and gas well field infrastructure within Oklahoma. If approved, the permit would be issued to the applicant under the *Oil and Gas Industry Conservation Plan Associated with Issuance of Endangered Species Act Section 10(a)(1)(B) Permits for the American Burying Beetle in Oklahoma* (ICP). The ICP was made available for comment on April 16, 2014 (79 FR 21480), and approved on May 21, 2014 (publication of the FONSI notice was on July 25, 2014; 79 FR 43504). The ICP and the associated environmental assessment/finding of no significant impact are available on the Web site at *http://www.fws.gov/southwest/es/oklahoma/ABBICP.* However, we are no longer taking comments on these documents.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following application under the ICP, for incidental take of the federally listed ABB. Please refer to the appropriate permit number (TE–123456) when requesting application documents and when submitting comments. Documents and other information the applicants have submitted with this application are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit TE–78498B

Applicant: Grand Mesa Pipeline, LLC, Edmond, OK. Applicant requests a new permit for gas upstream and midstream production, including geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of gas well field infrastructure, as well as construction, maintenance, operation, repair, decommissioning, and reclamation of gas gathering, transmission, and distribution pipeline infrastructure within Oklahoma.

Permit TE–78500B

Applicant: Chesapeake Energy Corporation, Oklahoma City, OK. Applicant requests a new permit for gas upstream and midstream production, including geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of gas well field infrastructure, as well as construction, maintenance, operation, repair, decommissioning, and reclamation of gas gathering, transmission, and distribution pipeline infrastructure within Oklahoma.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: October 21, 2015.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region.

[FR Doc. 2015–27973 Filed 11–2–15; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–ES–2015–N152; FF07CAMM00–FX–FR133707REG00]

Marine Mammals; Letters of Authorization To Take Pacific Walrus and Polar Bears, Beaufort and Chukchi Seas, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance.

SUMMARY: In accordance with the Marine Mammal Protection Act of 1972, as amended (MMPA), the U.S. Fish and Wildlife Service (Service) has issued letters of authorization for the nonlethal take of polar bears and Pacific walrus incidental to oil and gas industry exploration, development, and production activities in the Beaufort Sea and the adjacent northern coast of Alaska and incidental to oil and gas

industry exploration activities in the Chukchi Sea and the adjacent western coast of Alaska. These letters of authorization stipulate conditions and methods that minimize impacts to polar bears and Pacific walrus from these activities. These letters of authorization are available electronically at the following location: *http://www.fws.gov/alaska/fisheries/mmm/itr.htm.*

FOR FURTHER INFORMATION CONTACT: Michael Hendrick at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, MS 341, Anchorage, AK 99503; (800) 362–5148 or (907) 786–3479.

SUPPLEMENTARY INFORMATION: On August 3, 2011, the Service published in the **Federal Register** a final rule (76 FR 47010) establishing regulations that allow us to authorize the nonlethal, incidental, unintentional take of small numbers of polar bears and Pacific walrus during year-round oil and gas industry exploration, development, and production activities in the Beaufort Sea and adjacent northern coast of Alaska. The rule established subpart J in part 18 of title 50 of the Code of Federal Regulations (CFR) and is effective through August 3, 2016. The rule prescribed a process under which we issue Letters of Authorization (LOAs) to applicants conducting activities as described under the provisions of the regulations.

Each LOA stipulates conditions or methods that are specific to the activity and location. Holders of LOAs must use methods and conduct activities in a manner that minimizes to the greatest extent practicable adverse impacts on Pacific walrus and polar bears and their habitat, and on the availability of these marine mammals for subsistence purposes. Intentional take and lethal incidental take are prohibited.

In accordance with section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) and our regulations at 50 CFR 18, subpart J, we issued LOAs to each of the following companies in the Beaufort Sea and adjacent northern coast of Alaska:

BEAUFORT SEA LETTERS OF AUTHORIZATION

Company	Activity	Project	Date issued
Alaska Development and Export Authority	Development	North Slope Liquefied Natural Gas Facility	February 10, 2014.
Alaska Development and Export Authority	Development	North Slope Liquefied Natural Gas Facility (amended).	May 27, 2014.
Alaska Gasline Development Corporation	Exploration	North Slope Geotechnical drilling	April 8, 2014.
BP Exploration, Inc	Exploration	North Prudhoe Seismic Survey	June 11, 2014.
BP Exploration Alaska Inc	Exploration	Winter Vibroseis Seismic Survey	January 29, 2015.
Brooks Range Petroleum Corporation	Development	Mustang Development Program	January 15, 2015.
Caelus Natural Resources Alaska, LLC	Development	Nuna Development Activities	April 20, 2015.
ConocoPhillips Alaska, Inc	Exploration	Environmental Sampling and Well Plug Abandonment.	January 16, 2014.
ConocoPhillips Alaska, Inc	Exploration & Development	North Slope activities	December 12, 2014.
ExxonMobil Development Company	Exploration	Preliminary studies for development of Prudhoe Bay Gas Plant.	May 16, 2014.
ExxonMobil Alaska LNG LLC	Exploration	Prudhoe Bay Unit Hydrology Studies	August 6, 2014.
ExxonMobil Development Company	Exploration	Prudhoe Bay Unit Field Studies	December 23, 2014.
ExxonMobil Development Company	Exploration	Exploration activities at Point Thomson	January 29, 2015.
Geokinetics	Exploration	Caelus and Great Bear 3D Winter Seismic Surveys.	January 14, 2015.
Global Geophysical Services, Inc	Exploration	Kad River 3D Winter Seismic Surveys	January 14, 2015.
Global Geophysical Services, Inc	Exploration	Schrader Bluff 3D Seismic Survey	January 15, 2014.
Hilcorp Alaska, LLC	Production	Operations at the Milne Point, Endicott, and Northstar Facilities.	November 14, 2014.
Hilcorp Alaska, LLC	Exploration	Geotechnical Investigation, Sonar and Scour Survey.	January 29, 2015.
NordAq Energy, Inc	Exploration	Tulimaniq Exploration Drilling Project	November 14, 2014.
North Slope Borough	Development	Pipeline upgrades near Barrow	July 28, 2015.
Olgoonik Specialty Contractors, LLC	Development	Point Lonely, Oliktok Point, and Bullen Point DEW Line Cleanup.	March 25, 2014.
Olgoonik Fairweather, LLC	Exploration	Environmental Baseline Studies	June 11, 2014.
Olgoonik Specialty Contractors, LLC	Development	Demolition and Remediation Projects	May 29, 2015.
Pioneer Natural Resources Alaska, Inc	Development	Nuna Development Project	February 13, 2014.
Repsol E&P USA Inc	Exploration	Drilling Program in the Colville River area	January 29, 2015.
SAExploration, Inc	Exploration	North Slope Big Bend 3D Seismic Survey	February 11, 2014.
SAExploration, Inc	Exploration	Colville River Delta Seismic Survey	August 14, 2014.
SAExploration, Inc	Exploration	Umingmak 2015 Program Horseshoe Winter Seismic Survey.	December 23, 2014.
Shell Exploration and Production Company	Production	Ice Overflight Surveys	January 14, 2015.

On June 12, 2013, we published in the **Federal Register** a final rule (78 FR 35364) establishing regulations that allow us to authorize the nonlethal, incidental, unintentional take of small numbers of polar bears and Pacific walrus during year-round oil and gas industry exploration activities in the Chukchi Sea and adjacent western coast of Alaska. The rule established subpart I of 50 CFR part 18 and is effective until June 11, 2018. The process under which we issue LOAs to applicants and the requirements that the holders of LOAs must follow is the same as described above for LOAs issued under 50 CFR 18, subpart J.

In accordance with section 101(a)(5)(A) of the MMPA and our regulations at 50 CFR 18, subpart I, we

issued LOAs to the following companies in the Chukchi Sea:

CHUKCHI SEA LETTERS OF AUTHORIZATION

Company	Activity	Project	Date issued
Olgoonik Fairweather, LLC	Exploration	Environmental Studies	July 23, 2014.
Shell Exploration and Production Company.	Exploration	Ice observation overflights	January 14, 2015.
Shell Exploration and Production Company.	Exploration	Ice observation overflights (amended)	January 29, 2015.
Shell Exploration and Production Company.	Exploration	Exploration Drilling Program in the Chukchi Sea	June 30, 2015.
Shell Exploration and Production Company.	Exploration	Exploration Drilling Program in the Chukchi Sea (amended).	July 24, 2015.
TGS	Exploration	Seismic Operations	June 28, 2013.
TGS	Exploration	Seismic Operations (amended)	September 11, 2013.

Dated: October 26, 2015.

Peter J. Probasco,

Acting Regional Director, Alaska Region.

[FR Doc. 2015–27978 Filed 11–2–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–R–2015–N210; FF07RKDK00–FVRS80810700000–XXX]

Proposed Information Collection; Kodiak National Wildlife Refuge Bear Viewing Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by January 4, 2016.

ADDRESSES: Send your comments on the IC to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–Kodiak Bear Viewing'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Kodiak National Wildlife Refuge has partnered with Utah State University to conduct a public survey of visitors to the Kodiak National Wildlife Refuge who participate in bear viewing at structured and unstructured sites. Questions will address logistical aspects of bear viewing (including the amount of money visitors are willing to spend on viewing and amenities), satisfaction with current experiences (based on number of bears, density of other visitors, length of stay, and education received), and reported changes to attitudes and behavior related to bear conservation based on visitors' experiences on the refuge. Survey results are crucial to understanding public demands for and expectations of bear viewing, so that the refuge can better facilitate bear viewing opportunities and better convey educational messages on bear management.

II. Data

OMB Control Number: 1018–XXXX.

Title: Kodiak National Wildlife Refuge Bear Viewing Survey.

Service Form Number: None.

Type of Request: Request for a new OMB Control Number.

Description of Respondents: Visitors to Kodiak National Wildlife Refuge who come for the purpose of viewing bears.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Activity	Number of responses	Completion time per response (minutes)	Total annual burden hours
Initial Contact	1,800	2	60
Online Survey	600	15	150
Totals	2,400		210

Estimated Annual Nonhour Burden Cost: None

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and

• Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: October 28, 2015.

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2015–27874 Filed 11–2–15; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX16CD00B951000]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of a revision of a currently approved information collection (1028–0095).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This collection is scheduled to expire on March 31, 2016.

DATES: To ensure that your comments are considered, we must receive them on or before January 4, 2016.

ADDRESSES: You may submit comments on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648–7197 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'Information Collection 1028–0095, State Water Resources Research Institute Program Annual Application and Reporting' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Earl Greene, Chief, Office of External Research, U.S. Geological Survey, 5522 Research Park Drive, Baltimore, MD 21228 (mail); 443–498–5505 (phone); *eagreene@usgs.gov* (email). You may also find information about this ICR at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Water Resources Research Act of 1984, as amended (42 U.S.C. 10301 *et seq.*), authorizes a research institute water resources or center in each of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and American Samoa. There are currently 54 such institutes, one in each state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam. The institute in Guam is a regional institute serving Guam, the Federated States of Micronesia, and the Commonwealth of the Northern Mariana Islands. Each of the 54 institutes submits an annual application for an allotment grant and provides an annual report on its activities under the grant. The State Water Resources Research Institute Program issues an annual call for applications from the institutes to support plans to promote research, training, information dissemination, and other activities meeting the needs of the States and Nation. The program also encourages regional cooperation among institutes in research into areas of water management, development, and conservation that have a regional or national character. The U.S. Geological Survey has been designated as the administrator of the provisions of the Act.

II. Data

OMB Control Number: 1028–0095.

Form Number: NA.

Title: State Water Resources Research Institute Program Annual Application and Reporting.

Type of Request: Extension of a currently approved collection.

Affected Public: The state water resources research institutes authorized by the Water Resources Research Act of 1983, as amended, and listed at *http://water.usgs.gov/wrri/index.php.*

Respondent's Obligation: Mandatory (necessary to obtain grants).

Frequency of Collection: Annually.

Estimated Total Number of Annual Responses: We expect to receive 54 applications and award 54 grants per year.

Estimated Time per Response: 160 hours. This includes 80 hours per applicant to prepare and submit the annual application; and 80 hours (total) per grantee to complete the annual reports.

Estimated Annual Burden Hours: 8,640.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no ''non-hour cost'' burdens associated with this IC.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that we will be able to do so.

Earl A. Greene,

Chief, Office of External Research.

[FR Doc. 2015–27993 Filed 11–2–15; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMP00000 L13100000.PP0000 16XL1109AF]

Notice of Public Meeting, Pecos District Resource Advisory Council Meeting, Lesser Prairie-Chicken Habitat Preservation Area of Critical Environmental Concern (LPC ACEC) Livestock Grazing Subcommittee New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, Bureau of Land Management's (BLM) Pecos District Resource Advisory Council's (RAC) Lesser Prairie-Chicken (LPC) Habitat Preservation Area of Critical Environmental Concerns (ACEC) Livestock Grazing Subcommittee will meet as indicated below.

DATES: The RAC LPC ACEC subcommittee will meet on December 1, 2015, at 1:00 p.m. in the Roswell Field Office, 2909 West Second Street, Roswell, NM 88201. The public may send written comments to the Subcommittee at the BLM Pecos District Office, 2909 West 2nd Street, Roswell, New Mexico 88201.

FOR FURTHER INFORMATION CONTACT: Adam Ortega, Range Management Specialist, Roswell Field Office, Bureau of Land Management, 2909 West 2nd Street, Roswell, New Mexico 88201, 575–627–0204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member Pecos District RAC elected to create a subcommittee to advise the Secretary of the Interior, through the BLM Pecos District, about possible livestock grazing within the LPC ACEC. Planned agenda includes a discussion of management strategies for the ACEC.

Melanie Barnes,

Acting Deputy State Director, Lands and Resources.

[FR Doc. 2015–27985 Filed 11–2–15; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA942000 L57000000.BX0000 13X L5017AR]

Filing of Plats of Survey: California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of lands described below are scheduled to be officially filed in the Bureau of Land Management, California State Office, Sacramento, California.

DATES: December 3, 2015.

ADDRESSES: A copy of the plats may be obtained from the California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, upon required payment.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Geographic Services, Bureau of Land Management, California State Office, 2800 Cottage Way W–1623, Sacramento, California 95825, 1–916–978–4310. 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: A person or party who wishes to protest a survey must file a notice that they wish to protest with the Chief, Branch of Geographic Services. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Chief, Branch of Geographic Services within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. 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.

Mount Diablo Meridian, California

T. 2 N., R. 16 E., dependent resurvey, subdivision of sections and metes-and-bounds survey, accepted September 30, 2014.

T. 1 S., R. 14 E., supplemental plat of section 2, accepted September 17, 2015.

T. 1 N., R. 16 E., dependent resurvey, subdivision of sections and metes-and-bounds survey, accepted October 1, 2015.

T. 23 N., R. 12 W., supplemental plat of a portion of the NW ¼ of section 29, accepted October 5, 2015.

T. 11 N., R. 5 W., supplemental plat of the NW ¼ of section 1 and the NE ¼ of section 2, accepted October 13, 2015.

T. 12 N., R. 5 W., supplemental plat of the SW ¼ of section 36, accepted October 13, 2015.

San Bernardino Meridian, California

T. 3 N., R. 5 E., dependent resurvey and subdivision of sections, accepted September 3, 2015.

T. 4 N., R. 5 E., dependent resurvey, subdivision of section 7 and metes-and-bounds survey, accepted September 24, 2015.

T. 13 S., R. 18 E., dependent resurvey, independent resurvey and metes-and-bounds survey, accepted October 14, 2015.

T. 11 N., R. 12 E., corrective resurvey, subdivision of section 25 and metes-and-bounds survey, accepted October 20, 2015.

Authority: 43 U.S.C., chapter 3.

Dated: October 22, 2015.

Lance J. Bishop,

Chief Cadastral Surveyor, California.

[FR Doc. 2015–27979 Filed 11–2–15; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–WHHO–19594; PPNCWHHO00 PPMPSPD1Z.YM0000]

Notice of Public Meeting and Request for Comments

AGENCY: National Park Service, Interior.

ACTION: Notice/request for public meeting and public comments—The National Christmas Tree Lighting and the subsequent 29-day event.

SUMMARY: The National Park Service is seeking public comments and suggestions on the planning of the 2015 National Christmas Tree Lighting and the subsequent 29-day event. The general plan and theme for the event is the celebration of the holiday season

with the display of the traditional American symbols of Christmas.

DATES: The meeting will be held on Friday, November 6, 2015. Written comments will be accepted until November 6, 2015.

ADDRESSES: The meeting will be held at 9:00 a.m. on November 6, 2015, in Room 234 of the National Capital Region Headquarters Building, at 1100 Ohio Drive SW., Washington, DC (East Potomac Park). Written comments may be sent to Peter Lonsway, Manager, President's Park, National Park Service, 1100 Ohio Drive SW., Washington, DC 20242. Due to delays in mail delivery, it is recommended that comments be provided by fax at (202) 208–1643 or by email to *Peter_Lonsway@nps.gov.* Comments may also be delivered by messenger to the White House Visitor Center at 1450 Pennsylvania Avenue NW., in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Peter Lonsway, Manager, President's Park, National Park Service, weekdays between 9 a.m., and 4 p.m., at (202) 208–1631.

SUPPLEMENTARY INFORMATION: The National Park Service is seeking public comments and suggestions on the planning of the 2015 National Christmas Tree Lighting and the subsequent 29-day event, which opens on December 3, 2015, on the Ellipse (President's Park), south of the White House. The general plan and theme for the event is the celebration of the holiday season, where the park visitor will have the opportunity to view that lighting of the National Christmas tree, attend musical presentations and visit the yuletide displays of the traditional and familiar American symbols of Christmas, a national holiday. As in the past, these traditional and familiar American symbols will be the National Christmas Tree, the smaller trees representing the various states, District of Columbia and the territories, various seasonal musical presentations, and a traditional crèche which is not owned by the Government.

In order to facilitate this process the National Park Service will hold a meeting at 9:00 a.m. on November 6, 2015, in Room 234 of the National Capital Region Headquarters Building, at 1100 Ohio Drive SW., Washington, DC (East Potomac Park).

Persons who would like to comment at the meeting should notify the National Park Service by November 6, 2015, by calling Peter Lonsway at the White House Visitor Center weekdays between 9 a.m., and 4 p.m., at (202) 208–1631.

In addition, public comments and suggestions on the planning of the 2015 National Christmas Tree Lighting and the subsequent 29-day event may be submitted in writing. Written comments may be sent to the Manager, President's Park, National Park Service, 1100 Ohio Drive SW., Washington, DC 20242, and will be accepted until November 6, 2015. Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Dated: October 27, 2015.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2015–27966 Filed 11–2–15; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SER–BICY–18998; PPSEBICY00, PPMPSPD1Z.YM0000]

Big Cypress National Preserve Off-Road Vehicle Advisory Committee Charter Renewal

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior is giving notice of renewal of the Big Cypress National Preserve Off-Road Vehicle Advisory Committee to offer recommendations, alternatives and possible solutions to management of off-road vehicles at Big Cypress National Preserve.

FOR FURTHER INFORMATION CONTACT: Tamara Whittington, Superintendent, Big Cypress National Preserve, 33100 Tamiami Trail E, Ochopee, Florida 34141, (239) 695–1103.

SUPPLEMENTARY INFORMATION: The Big Cypress National Preserve Off-Road Vehicle Advisory Committee (Committee) has been established as directed in the *Off-Road Vehicle Management Plan, 2000.* This plan guides the National Park Service (NPS) in its management of recreational off-road vehicle (ORV) use in Big Cypress National Preserve, and tiers off of the Preserve's 1991 General Management Plan. The NPS agreed to prepare an ORV management plan as part of a settlement agreement negotiated in 1995 between the Florida Biodiversity Project and several Federal agencies and bureaus. The agreement settled a lawsuit which alleged failure by the agencies to comply with Federal statutes, including the Clean Water Act, the Endangered Species Act, and the National Environmental Policy Act.

The *Off-Road Vehicle Management Plan, 2000* (p. 29) states ''Under the proposed action, the National Park Service would establish an advisory committee of concerned citizens to examine issues and make recommendations regarding the management of ORVs in the Preserve. The establishment of the Committee meets the legal requirements of the 1972 Federal Advisory Committee Act (FACA) (Pub. L. 92–463, 1972, as amended). The advisory Committee provides access to the extensive knowledge available in the public arena and offers advice to the National Park Service in the decision-making process in a manner consistent with FACA. This Committee is an element of the adaptive management approach used to develop best management practices for ORV use.''

As part of the ORV management plan, the NPS committed to establishing the Committee. In addition, the establishment of the Committee fulfills the agency's policy of civic engagement. This Committee strengthens the relationship that the NPS has with its partners and communities. The Committee is composed of individuals that represent (1) sportsmen/ORV users; (2) landowners; (3) academia; (4) environmental advocates; (5) the State government, and (6) tribes.

Certification: I hereby certify that the renewal of the Big Cypress Off-Road Vehicle Advisory Committee is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by the National Park Service Organic Act (54 U.S.C. 100101(a) *et seq.*), and other statutes relating to the administration of the National Park Service.

Dated: October 16, 2015.

Sally Jewell,

Secretary of the Interior.

[FR Doc. 2015–27964 Filed 11–2–15; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–KAHO–19609; PPPWKAHOS0, PPMPSPD1Z.00000]

Cancellation of November 6, 2015, Meeting of the Na Hoa Pili O Kaloko-Honokohau National Historical Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Cancellation of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), notice is hereby given that the November 6, 2015, meeting of the Na Hoa Pili O Kaloko-Honokohau (The Friends of Kaloko-Honokohau) (Commission), an advisory commission for Kaloko-Honokohau National Historical Park (Park) previously announced in the **Federal Register**, Vol. 79, December 22, 2014, pp. 76365, is cancelled.

FOR FURTHER INFORMATION CONTACT: Jeff Zimpfer, Environmental Protection Specialist, Kaloko-Honoko-Honokohau National Historical Park, 73–4786 Kanalani St., #14, Kailua Kona, HI 96740, at (808) 329–6881, ext. 1500, or email *jeff_zimpfer@nps.gov.*

SUPPLEMENTARY INFORMATION: The Park was established by 16 U.S.C. 396d in November 1978. The Advisory Commission was established by section 396d(f) of that same law. The Commission was re-established by section 7401 of Public Law 111–11, the Omnibus Public Land Management Act of 2009, enacted March 30, 2009. The Commission's current termination date is December 31, 2018.

The purpose of the Commission is to advise the Director of the National Park Service with respect to the historical, archeological, cultural, and interpretive programs of the Park. The Commission is to afford particular emphasis to the quality of traditional native Hawaiian cultural practices demonstrated in the Park.

Dated: October 27, 2015.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2015–27961 Filed 11–2–15; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–CEBE–19613; PPNECEBE00, PPMPSAS1Z.Y00000]

Notice of the 2016 Meeting Schedule for Cedar Creek and Belle Grove National Historical Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given by the National Park Service, in accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), that the Cedar Creek and Belle Grove National Historical Park Advisory Commission will hold quarterly meetings to discuss park projects and the implementation of the park's general management plan.

DATES: March 17, 2016.

ADDRESSES: Middletown Town Hall Council Chambers, 7875 Church Street, Middletown, VA 22645.

DATES: June 16, 2016.

ADDRESSES: Warren County Government Center, 220 North Commerce Avenue, Front Royal, VA 22630.

DATES: September 15, 2016.

ADDRESSES: Strasburg Town Hall Council Chambers, 174 East King Street, Strasburg, VA 22657.

DATES: December 15, 2016.

ADDRESSES: Middletown Town Hall Council Chambers, 7875 Church Street, Middletown, VA 22645.

Agenda: All meetings are open to the public and begin at 9:00 a.m. (EASTERN). Topics to be discussed include: Visitor services and interpretation—including directional and interpretive signage and visitor facilities, land protection planning, historic preservation, and natural resource protection.

Commission meetings will consist of the following:

1. General Introductions
2. Review and Approval of Commission Meeting Notes
3. Reports and Discussions
4. Old Business
5. New Business
6. Closing Remarks

FOR FURTHER INFORMATION CONTACT: Further information concerning the meetings may be obtained from Karen Beck-Herzog, Acting Site Manager, Cedar Creek and Belle Grove National Historical Park, P.O. Box 700, Middletown, Virginia 22645, telephone (540) 868–9176, or visit the park Web site: *http://www.nps.gov/cebe/parkmgmt/park-advisory-commission.htm.*

SUPPLEMENTARY INFORMATION: The Commission was designated by Congress to provide advice to the Secretary of the Interior on the preparation and implementation of the park's general management plan and to advise on land protection. Individuals who are interested in the park, the implementation of the plan, or the business of the Commission are encouraged to attend the meetings. Interested members of the public may present, either orally or through written comments, information for the Commission to consider during the public meeting. Attendees and those wishing to provide comment are strongly encouraged to preregister through the contact information provided. Scheduling of public comments during the Commission meeting will be determined by the chairperson of the Commission.

Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Dated: October 27, 2015.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2015–27968 Filed 11–2–15; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19531; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Texas Archeological Research Laboratory, The University of Texas at Austin, Austin, TX

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Texas Archeological Research Laboratory, The University of Texas at Austin, Austin, TX, has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian

organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Texas Archeological Research Laboratory, The University of Texas at Austin, Austin, TX. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Texas Archeological Research Laboratory, The University of Texas at Austin, Austin, TX, at the address in this notice by December 3, 2015.

ADDRESSES: Marybeth Tomka, Head of Collections, Texas Archeological Research Laboratory, The University of Texas at Austin, 1 University Station, R7500, Austin, TX 78712, telephone (512) 475–6853, email *marybeth.tomka@austin.utexas.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Texas Archeological Research Laboratory, The University of Texas at Austin, Austin, TX. The human remains were removed from Crosby, Mitchell, and Nolan Counties, TX.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Texas Archeological Research Laboratory, The University of Texas at Austin (TARL) professional staff, in consultation with representatives of the Apache Tribe of Oklahoma; Comanche Nation, Oklahoma; and the Kiowa Indian Tribe of Oklahoma.

History and Description of the Remains

In 1930, human remains representing, at minimum, one individual, were believed to be removed from site 41MH18, in Mitchell County, TX. Cyrus Ray and W.J. Van London visited an historic Native American burial previously found by Mr. Van London. The burial had apparently been disturbed before the joint visit. In a small, poorly documented collection, presumably made at the time of the visit, there are two extensively worn teeth, assumed to be from a single individual. No documentation exists concerning the transfer of these human remains to TARL. No known individual was identified. No associated funerary objects are present.

Diagnostic artifacts date the site to the mid-1800s. The location of the site is within the territory inhabited by both the Comanche and Kiowa Indians during the 1800s.

In 1985, human remains representing, at minimum, two individuals were removed by a University of Texas archeologist from the Church Peak site (41NL8), in Nolan County, TX. This site was originally documented by E.B. Sayles. Although Mr. Sayles had collected some materials from the site, none can be specifically linked to these interments. No known individuals were identified. No associated funerary objects are present.

The mode of interment and diagnostic artifacts found at the site date the site to the mid-1800s. The location of the site is within the territory inhabited by both the Comanche and Kiowa Indians during the 1800s.

In 1995, human remains representing, at minimum, one individual were transferred to TARL from Midwestern State University (MSU). The human remains are represented by one cranium. The human remains had been found on an unspecified date during construction of a road and were given to Walter Dalquest at MSU. Some of the long bones and about 25 copper bracelets had also been given to Dr. Dalquest, but by the time of the transfer to TARL they had been lost. The human remains came from an unspecified locality, apparently private land, several miles north of Crosbyton, in Crosby County, TX. No other details of the site are known. No known individual was identified. No associated funerary objects are present.

The preservation of the human remains and the recorded presence of copper wire bracelets date the site to the late 1800s. The location of the site is within the territory inhabited by both the Comanche and the Kiowa Indians during the 1800s.

Determinations Made by the Texas Archeological Research Laboratory, The University of Texas at Austin

Officials of the Texas Archeological Research Laboratory, The University of Texas at Austin have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Apache Tribe of Oklahoma; Comanche Nation, Oklahoma; and the Kiowa Indian Tribe of Oklahoma.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Marybeth Tomka, Head of Collections, Texas Archeological Research Laboratory, The University of Texas at Austin, 1 University Station, R7500, Austin, TX 78712, telephone (512) 475–6853, email *marybeth.tomka@austin.utexas.edu,* by December 3, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Apache Tribe of Oklahoma; Comanche Nation, Oklahoma; and the Kiowa Indian Tribe of Oklahoma.

The Texas Archeological Research Laboratory, The University of Texas at Austin is responsible for notifying the Apache of Oklahoma; Comanche of Oklahoma; and the Kiowa of Oklahoma that this notice has been published.

Dated: October 6, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–27988 Filed 11–2–15; 8:45 am]

BILLING CODE 4312–50–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–550 and 731–TA–1304–1305 (Preliminary)]

Certain Iron Mechanical Transfer Drive Components From Canada and China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–550 and 731–TA–1304–1305 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain iron mechanical transfer drive components (''IMTDCs'') from Canada and China, provided for in subheadings 8431.39.00, 8483.50.40, 8483.50.60, 8483.50.90, and 8483.90.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and that are alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation, the Commission must reach preliminary determinations in antidumping and countervailing duty investigations in 45 days, or in this case by December 14, 2015. The Commission's views must be transmitted to Commerce within five business days thereafter, or by December 21, 2015.

DATES: *Effective Date:* October 28, 2015.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to petitions filed on October 28, 2015, by TB Wood's Incorporated, Chambersburg, Pennsylvania.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioner) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:00 a.m. on November 18, 2015, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before November 16, 2015. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 23, 2015, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov*.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Dated: October 29, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–27956 Filed 11–2–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–549 and 731–TA–1299–1303 (Preliminary)]

Circular Welded Carbon-Quality Steel Pipe From Oman, Pakistan, the Philippines, the United Arab Emirates, and Vietnam

Institution of antidumping and countervailing duty investigations and scheduling of preliminary phase investigations.

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–549 and 731–TA–1299–1303 (Preliminary)

pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of circular welded carbon-quality steel pipe from Oman, Pakistan, the Philippines, the United Arab Emirates, and Vietnam, provided for in subheading 7306.19.10, 7306.19.51, 7306.30.10, 7306.30.50, 7306.50.10, and 7306.50.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less-than-fair-value and alleged to be subsidized by the Government of Pakistan. Unless the Department of Commerce extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by December 14, 2015. The Commission's views must be transmitted to Commerce within five business days thereafter, or by December 21, 2015.

DATES: *Effective date:* October 28, 2015.

FOR FURTHER INFORMATION CONTACT: Justin Enck (202–3363), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on October 28, 2015, by Bull Moose Tube Company (Chesterfield, Missouri), EXLTUBE (N. Kansas City, Missouri), Wheatland Tube, a division of JMC Steel Group (Chicago, Illinois), and Western Tube and Conduit (Long Beach, California).

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 1:30 p.m. on Wednesday, November 18, 2015, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before November 16, 2015. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 23, 2015, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Dated: October 29, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–27955 Filed 11–2–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0091]

Agency Information Collection Activities; Proposed eCollection eComments Requested; National Response Team Customer Satisfaction Survey

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until January 4, 2016.

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 Program Analyst Joe Romano, Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue NE., Washington, DC 20226 at: *joseph.romano@atf.gov* and 202–648–7134.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection 1140–0091:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* National Response Team Customer Satisfaction Survey

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: None

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: None.

Abstract: Primary: Individuals or households. Other: None. The National Response Team (NRT) survey is used to support a Bureau performance measure and to assess strengths and weaknesses of a major program of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 20 respondents will take 10 minutes to complete the survey.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 5 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: October 28, 2015.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015–27920 Filed 11–2–15; 8:45 am]

BILLING CODE 4410—FYP

DEPARTMENT OF JUSTICE

[OMB Number 1140–0038]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application for Federal Firearms License (Collector of Curios and Relics)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until January 4, 2016.

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 Tracey Robertson, Chief, Federal Firearms Licensing Center, 244 Needy Road, Martinsburg, WV 25405, at *Tracey.Robertson@atf.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- 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 1140–0038

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Application for Federal Firearms License (Collector of Curios and Relics).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF F 7CR (5310.16).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: None.

Abstract: Primary: Individuals or households. Other: None. The form is used by the public when applying for a Federal firearms license to collect curios and relics to facilitate a personal collection in interstate and foreign commerce. The information requested on the form establishes eligibility for the license.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 5,200

respondents will take 15 minutes to complete the survey.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 1,300 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: October 28, 2015.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015–27922 Filed 11–2–15; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On October 26, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Iowa in the lawsuit entitled *United States and State of Iowa* v. *City of Waterloo,* Civil Action No. 6:15–cv–02087–LRR, Dkt. #3.

The United States, on behalf the United States Environmental Protection Agency (''EPA''), and the State of Iowa filed a complaint against the City of Waterloo seeking injunctive relief and the imposition of civil penalties for illegal discharges of pollutants, including untreated sewage, from the City's sanitary sewer system, and for violations of the conditions established in the City's National Pollutant Discharge Elimination System (''NPDES'') permit for the sewer system. The consent decree requires the City to conduct assessments of its sewer system and develop a plan of remedial measures to prevent future violations, and to pay $272,000 in settlement, split between the United States and the State of Iowa.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Iowa* v. *City of Waterloo,* D.J. Ref. No. 90–5–1–1–10719. All comments must be submitted no later than thirty (30) days after the publication date of this notice.

Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, DC 20044–7611

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $31.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $11.25.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–27938 Filed 11–2–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; YouthBuild Impact Evaluation: Youth Follow-Up Surveys

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, ''YouthBuild Impact Evaluation: Youth Follow-Up Surveys,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before December 3, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201504-1205-005* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the YouthBuild Impact Evaluation: Youth Follow-Up Surveys information collection in order to complete administration of the 48-month follow-up survey. Data collected in the follow-up surveys will be used in impact analyses of the YouthBuild Program. This information collection has been classified as a revision, because of the addition of five new questions and the removal of 16 questions designed to facilitate future contact. Workforce Investment Act section 172 and Workforce Innovation and Opportunity Act section 169 authorize this information collection. *See* 29 U.S.C. 2917, 3224.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition,

notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0504. The current approval is scheduled to expire on December 31, 2015; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 2, 2015 (80 FR 31418).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0503. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: YouthBuild Impact Evaluation: Youth Follow-Up Surveys.

OMB Control Number: 1205–0503.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 2,749.

Total Estimated Number of Responses: 2,749.

Total Estimated Annual Time Burden: 1,604 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: October 28, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–27946 Filed 11–2–15; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Waiver of Service by Registered or Certified Mail

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) titled, ''Waiver of Service by Registered or Certified Mail,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before December 3, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201506-1240-012* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Waiver of Service by Registered or Certified Mail information collection. An employer, insurance carrier, or an authorized representative completes Form LS–801 and forwards it to an OWCP District Director to waive service of orders by registered or certified mail in favor of receipt by email instead. A claimant or authorized representative completes Form LS–802 and forwards it to the District Director to waive service of orders by registered or certified mail in favor of email instead. Longshore and Harbor Workers' Compensation Act sections 19(e) and 39(a)(1) authorize this information collection. *See* 33 U.S.C. 919(e) and 939(a)(1).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1240–0053.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on November 30, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 15, 2015 (80 FR 41514).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments

should mention OMB Control Number 1240–0053. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OWCP.

Title of Collection: Waiver of Service by Registered or Certified Mail.

OMB Control Number: 1240–0053.

Affected Public: Individuals and Households and Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 9,240.

Total Estimated Number of Responses: 9,240.

Total Estimated Annual Time Burden: 770 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: October 28, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–27948 Filed 11–2–15; 8:45 am]

BILLING CODE 4510–CF–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (15–100)]

NASA Advisory Council; Ad Hoc Task Force on STEM Education; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Ad Hoc Task Force on Science, Technology, Engineering and Mathematics (STEM) of the NASA Advisory Council (NAC). This Task Force reports to the NAC.

DATES: Thursday, November 19, 2015, 1:00 p.m. to 3:30 p.m., EST.

FOR FURTHER INFORMATION CONTACT: Dr. Beverly Girten, Executive Secretary for the NAC Ad Hoc Task Force on STEM Education, NASA Headquarters, Washington, DC 20546, 202–358–0212, or *beverly.e.girten@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be available telephonically and by WebEx. You must use a touch tone phone to participate in this meeting. Any interested person may dial the toll free access number 844–467–6272 or toll access number 720–259–6462, and then the numeric participant passcode: 329152 followed by the # sign. To join via, the link is *https://nasa.webex.com/*, the meeting number is 993 181 607 and the password is Educate1! (Password is case sensitive.) NOTE: If dialing in, please ''mute'' your telephone. The agenda for the meeting will include the following:

—Opening Remarks by Chair
—Review and Discuss Topics Identified for Development of Findings
—Review and Discuss Topics for Development of Recommendations
—Determine Priorities of Findings and Recommendations
—Formulate Top Findings and Recommendations
—Other Related Topics

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–27873 Filed 11–2–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (15–099)]

NASA Advisory Council; Science Committee; Public Nominations for Subcommittees

AGENCY: National Aeronautics and Space Administration.

ACTION: Annual Invitation for Public Nominations by U.S. Citizens for Service on the NASA Advisory Council's Science Committee Subcommittees.

SUMMARY: NASA announces its annual invitation for public nominations for service on the NASA Advisory Council's Science Committee subcommittees. Five science subcommittees report to the Science Committee of the NASA Advisory Council (NAC), a Federal advisory committee under the Federal Advisory Committee Act (FACA). U.S. citizens may submit self-nominations for consideration to fill intermittent vacancies on these five science subcommittees. NASA's science subcommittees have member vacancies from time to time throughout the year, and NASA will consider self-nominations to fill such intermittent vacancies. *Nominees will only be contacted should a vacancy arise and it is judged that their area(s) of expertise is appropriate for that specific vacancy.* NASA is committed to selecting members to serve on its science subcommittees based on their individual expertise, knowledge, experience, and current/past contributions to the relevant subject area.

DATES: The deadline for NASA receipt of all public nominations is November 23, 2015.

ADDRESSES: To be considered by NASA, self-nomination packages from interested U.S. citizens must be sent to NASA as an email and must include the name of the specific NAC science subcommittee of interest. Self-nomination packages are limited to specifying interest in only one NAC science subcommittee per year. The following information is required to be included as part of each self-nomination package: (1) A cover email including the name of the specific NAC science subcommittee of interest; (2) a professional resume (one-page maximum, included as an attachment); and, (3) a professional biography (one-page maximum; included as an attachment). All public self-nomination packages must be submitted electronically via email to NASA to one of the addresses listed below; paper-based documents sent through postal mail (hard-copies) will not be accepted. Note: Self-nomination packages that do not include the three (3) mandatory elements listed above will not receive further consideration by NASA. Please submit the nomination as a single package containing the cover email and both required attachments electronically to the specific email identified for the NAC science subcommittee of interest:

- Astrophysics Subcommittee (APS): *aps-execsec@hq.nasa.gov*
- Earth Science Subcommittee (ESS): *ess-execsec@hq.nasa.gov*
- Heliophysics Subcommittee (HPS): *hps-execsec@hq.nasa.gov*
- Planetary Protection Subcommittee (PPS): *pps-execsec@hq.nasa.gov*

• Planetary Science Subcommittee (PSS): *pss-execsec@hq.nasa.gov*

FOR FURTHER INFORMATION CONTACT: To obtain further information on NASA's science subcommittees, please visit the NAC Science Committee's subcommittee Web site noted below. For any questions, please contact Ms. Elaine Denning, Science Mission Directorate, NASA Headquarters, (202) 358–0332; or email *elaine.j.denning@nasa.gov.*

SUPPLEMENTARY INFORMATION: Nominees from any category of organizations or institutions within the U.S. are welcome, including, but not limited to, educational, industrial, and not-for-profit organizations, Federally Funded Research and Development Centers (FFRDCs), University Affiliated Research Centers (UARCs), NASA Centers, the Jet Propulsion Laboratory (JPL), and other Government agencies. Nominees need not be presently affiliated with any organization or institution.

The following qualifications/experience are highly desirable in nominees, and should be clearly presented in their self-nomination packages:

• At least 10 years post-Ph.D. research experience including publications in the scientific field of the subcommittee for which they are nominated, or comparable experience;

• Leadership in scientific and/or education and public outreach fields as evidenced by award of prizes, invitation to national and international meetings as speaker, organizer of scientific meetings/workshops, or comparable experience;

• Participation in NASA programs either as member of NASA mission science team, Research and Analysis program, membership on an advisory/working group or a review panel, or comparable experience;

• Good knowledge of NASA programs in the scientific field of the subcommittee for which they are applying, including the latest NASA Science Plan (available as a link from *http://science.nasa.gov/about-us/science-strategy/*), or comparable experience; and,

• Knowledge of the latest Decadal Survey conducted by the National Academies or other relevant advisory reports for the scientific field of the subcommittee.

These are not full-time positions and the likelihood that a vacancy will occur in the coming year is unknown at this time. Successful nominees will be required to attend meetings of the subcommittee approximately two or three times a year, either in person (NASA covers travel-related expenses for this non-compensated appointment) or via telecon and/or virtual meeting medium. All successful nominees will be required to submit confidential financial disclosure forms, and undergo conflict of interest reviews by the NASA Office of the General Counsel, before their appointment is finalized. Successful nominees who are not U.S. Government employees will be formally appointed as Special Government Employees (SGEs).

NASA's five (5) science subcommittees are listed below. Additional information about these science subcommittees may be found at the NAC Science Committee's subcommittee Web site at *http://science.nasa.gov/science-committee/subcommittees.*

• *Astrophysics Subcommittee (APS)*—The Astrophysics Subcommittee is a standing subcommittee of the NAC Science Committee supporting the advisory needs of the NASA Administrator, the Science Mission Directorate (SMD), SMD's Astrophysics Division (APD), and other NASA Mission Directorates as required. The scope of the APS includes projects and observational and theoretical study of the origins, evolution, and destiny of the universe and the search for and study of Earth-like planets and habitable, extrasolar environments. In addition to scientific research, the scope encompasses considerations of the development of near-term enabling technologies, systems, and computing and information management capabilities, developments with the potential to provide long-term improvements in future operational systems, as well as training of the next generation of astronomers, and education and public outreach.

• *Earth Science Subcommittee (ESS)*—The Earth Science Subcommittee is a standing subcommittee of the NAC Science Committee supporting the advisory needs of the NASA Administrator, the Science Mission Directorate (SMD), SMD's Earth Science Division (ESD), and other NASA Mission Directorates as required. The scope of the ESS includes the advancement of scientific knowledge of the Earth system through space-based observation and the pioneering use of these observations in conjunction with process studies, data assimilation and modeling to provide the Nation with improved capability to: Predict climate variability, global change, and weather; mitigate and respond to natural hazards; and improve the scientific basis for policy decisions. In addition to observations and scientific research, the scope encompasses the development of computing and information management capabilities and other enabling technologies, including those with the potential to improve future operational satellite and ground systems.

• *Heliophysics Subcommittee (HPS)*—Heliophysics Subcommittee is a standing subcommittee of the NAC Science Committee supporting the advisory needs of the NASA Administrator, the Science Mission Directorate (SMD), SMD's Heliophysics Division (HPD), and other NASA Mission Directorates as required. The scope of the HPS includes all aspects of heliophysics, including the dynamical behavior of the Sun and its heliosphere; the dynamical behavior of the magnetosphere, ionosphere, and upper atmosphere of Earth and other planets; the multi-scale interaction between solar system plasmas and the interstellar medium; energy transport and coupling throughout the heliophysics domain; and space weather. In addition to scientific research, the scope encompasses considerations of the development of enabling technologies, systems, and computing and information management capabilities, as well as developments with the potential to provide long-term improvements to future space weather operational systems.

• *Planetary Protection Subcommittee (PPS)*—Planetary Protection Subcommittee is a standing subcommittee of the NAC Science Committee supporting the advisory needs of the NASA Administrator, the Science Mission Directorate (SMD), SMD's Planetary Science Division (PSD), NASA's Planetary Protection Officer, and other NASA Mission Directorates as required. The scope of the PPS includes programs, policies, plans, hazard identification and risk assessment, and other matters pertinent to the Agency's responsibilities for biological planetary protection. This scope includes consideration of NASA planetary protection policy documents, implementation plans, and organization. The subcommittee will review and recommend appropriate planetary protection categorizations for all bodies of the solar system to which spacecraft will be sent. The scope also includes the development of near-term enabling technologies, systems, and capabilities, as well as developments with the potential to provide long-term improvements in future operational systems to support planetary protection. Outside the scope of the

Subcommittee's responsibilities are issues that pertain solely to the quality and interpretation of scientific experiments and data in support of solar system exploration.

• *Planetary Science Subcommittee (PSS)*—Planetary Science Subcommittee is a standing subcommittee of the NAC Science Committee supporting the advisory needs of the NASA Administrator, the Science Mission Directorate (SMD), SMD's Planetary Science Division (PSD), and other NASA Mission Directorates as required. The scope of the PSS includes all aspects of planetary science, scientific exploration of the Moon and Mars, the robotic exploration of the solar system, astrobiology, exoplanet research, space- and ground-based research, technology development, planning, and training required to support these science areas. In addition to scientific research, the scope encompasses considerations of the development of near-term enabling technologies, systems, and computing and information management capabilities, as well as developments with the potential to provide long-term improvements in future operational systems. Responsibility for biological planetary protection is outside the purview of the PSS and resides with the Planetary Protection Subcommittee (PPS).

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–27952 Filed 11–2–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, November 17, 2015.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTER TO BE CONSIDERED:

8610B Truck-Tractor Semitrailer Crossover Collision with Medium-Size Bus on Interstate 35, Davis, OK—September 26, 2014

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* by Tuesday, November 10, 2015.

The public may view the meeting via a live or archived webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

FOR MORE INFORMATION CONTACT: Candi Bing at (202) 314–6403 or by email at *bingc@ntsb.gov.*

FOR MEDIA INFORMATION CONTACT: Eric Weiss at (202) 314–6100 or by email at *eric.weiss@ntsb.gov* .

Friday, October 30, 2015

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2015–28140 Filed 10–30–15; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0240]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of five amendment requests. The amendment requests are for Dresden Nuclear Power Station, Units 2 and 3; Quad Cities Nuclear Power Station, Units 1 and 2; Nine Mile Point Nuclear Station, Unit 2; Cooper Nuclear Station; and Edwin I. Hatch Nuclear Plant, Unit 1. The NRC proposes to determine that each amendment request involves no significant hazards consideration. In addition, each amendment request contains sensitive unclassified non-safeguards information (SUNSI).

DATES: Comments must be filed by December 3, 2015. A request for a hearing must be filed by January 4, 2016. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by November 13, 2015.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0240. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lynn Ronewicz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1927, email: *Lynn.Ronewicz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0240 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0240.

• 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 ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

• 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.

B. Submitting Comments.

Please include Docket ID NRC–2015–0240, facility name, unit number(s), application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

I. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by January 4, 2016. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under § 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by January 4, 2016.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those

participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection at the NRC's PDR. For additional direction on obtaining information related to this document, see the ''Obtaining Information and Submitting Comments,'' section of this document.

Exelon Generation Company, LLC (EGC), Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station (DNPS), Units 2 and 3, Grundy County, Illinois; and Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station (QCNPS), Units 1 and 2, Rock Island County, Illinois

Date of amendment request: February 6, 2015, as supplemented by letter dated September 1, 2015. Publicly-available versions are available in ADAMS under Accession Nos. ML15055A154 and ML15251A381, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise Technical Specification (TS) 5.6.5, ''Core Operating Limits Report (COLR),'' to delete no longer used methodologies and to add the AREVA analysis methodologies to the list of approved methods to be used in determining the core operating limits in the COLR. Exelon Generation Company, LLC, also proposes to revise DNPS and QCNPS TS 3.2.3, ''Linear Heat Generation Rate (LHGR),'' and TS 3.7.7, ''The Main Turbine Bypass System.'' In addition, the proposed amendment would change one of the Allowable Values in the DNPS and QCNPS TS Surveillance Requirement 3.3.4.1.4, ''ATWS–RPT [Anticipated Transient Without Scram Recirculation Pump Trip] Instrumentation.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change has no effect on any accident initiator or precursor previously evaluated and does not change the manner in which the core is operated. The type of fuel is not a precursor to any accident. The new methodologies for determining core operating limits have been validated to ensure that the output accurately models predicted core behavior, and use of the methodologies will be within the ranges previously approved. The new methodologies being referenced have all been submitted to the NRC, and have been approved.

The proposed changes to the TS associated with LHGR and the Main Turbine Bypass System, support the new analyses performed as part of the transition to ATRIUM 10XM fuel. These changes do not require modification to the plant and do not impact any initiators of an accident previously analyzed. Implementation of these changes will ensure that the basis for the accident and transient analyses are maintained throughout the operating cycle.

The proposed change to the ATWS–RPT high RPV [reactor pressure vessel] steam dome pressure does not require modification to the facility beyond the conservative reduction of the allowable value (AV). The proposed change will be implemented through revision of the associated surveillance test procedures, where the revised AV will replace the existing value.

Calculation of the AV to plant-specific parameters provides additional confidence that protective instrumentation that passes the surveillance testing criteria will perform its design function without exceeding the associated limit.

The revised AV for the ATWS–RPT is not considered an initiator to any previously analyzed accident and therefore, cannot increase the probability of any previously evaluated accident. Implementation of the revised AV will ensure that the instrumentation will perform its required function to meet the accident analysis assumptions. The proposed AV will ensure that the fuel is adequately cooled and over pressurization of the nuclear steam supply system is prevented following an accident or transient. The proposed change does not increase the probability of any accident previously evaluated.

There is no change in the consequences of an accident previously evaluated. The proposed change in the administratively controlled analytical methods does not affect the ability to successfully respond to previously evaluated accidents and does not affect radiological assumptions used in the evaluations. The source term from ATRIUM 10XM fuel will be bounded by the source term assumed in the accident analyses. Since the proposed change ensures the same level of protection as assumed in the accident analyses, the conclusions of the accident scenarios remain valid. As a result, no changes to radiological release parameters are involved. There is no effect on the type or amount of radiation released, and there is no effect on predicted offsite doses in the event of an accident.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not affect the performance of any DNPS or QCNPS structure, system, or component credited with mitigating any accident previously evaluated. The use of new analytical methods, which have been reviewed and approved by the NRC, for the design of a core reload will not affect the control parameters governing unit operation or the response of plant equipment to transient conditions. The proposed change does not introduce any new modes of system operation or failure mechanisms. The proposed TS changes ensure operation in compliance with the accident and transient analyses.

The proposed change to the ATWS–RPT AV does not involve any physical changes to the ATWS–RPT system or associated components beyond the reduction in the ATWSRPT AV for high reactor vessel steam dome pressure, or the manner in which the ATWS–RPT system functions. The proposed change will not alter the manner in which equipment operation is initiated nor will the functional demands on credited equipment be changed. The change in methods governing normal plant operation is consistent with the current ATWS analysis assumptions specified in the DNPS and QCNPS Updated Final Safety Analysis Report (UFSAR).

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to TS 3.2.3 provides assurance the operating parameters are consistent with the inputs to the transient analyses which take credit for conservatisms in scram speed performance. The proposed change does not alter the acceptance criteria for control rod scram times. The proposed revision to TS 3.7.7 allows the flexibility to take credit for LHGR limits defined in the COLR based on the analyses supporting the transition to ATRIUM 10XM fuel. The proposed change to TS Section 5.6.5.b adds new analytical methods for design and analysis of core reloads to the list of methods currently used to determine the core operating limits. The NRC has previously approved the analytical methods being added.

The proposed change also lowers the ATWS–RPT AV for RPT on high reactor steam dome pressure. There is no decrease in the margin of safety, since the maximum reactor vessel pressure for a postulated ATWS event and ASME overpressure event is maintained below the acceptance criteria. The proposed change will be implemented through revisions to the associated surveillance test procedures where the revised AV replaces the existing AV. Since the availability of the ATWS–RPT system will be maintained and since the system design is unaffected, the proposed change ensures the instrumentation is capable of performing its intended function.

Since the setpoint at which the ATWS–RPT is activated is not a safety limit, the proposed change does not modify any safety limits at which protective actions are initiated, and does not change the requirements governing operation or availability of safety equipment assumed to operate to preserve the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based upon the above, EGC concludes that the proposed amendment presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of no significant hazards consideration is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra (Tami) Domeyer, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, Illinois 60555.

NRC Branch Chief: Travis L. Tate.

Exelon Generation Company, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2 (NMP2), Oswego County, New York

Date of amendment request: September 3, 2015. A publicly-available version is in ADAMS under Accession No. ML15252A204.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise Technical Specification (TS) 2.1.1 (''Reactor Core SLs''). Specifically, this change incorporates revised Safety Limit Minimum Critical Power Ratios (SLMCPRs) due to the cycle specific analysis performed by Global Nuclear Fuel (GNF) for the introduction of GNF2 fuel for NMP2, Cycle 16.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The derivation of the cycle specific Safety Limit Minimum Critical Power Ratios (SLMCPRs) for incorporation into the Technical Specifications (TS), and their use to determine cycle specific thermal limits, has been performed using the methodology discussed in NEDE–24011–P–A, ''General Electric Standard Application for Reactor Fuel,'' Revision 21.

The basis of the SLMCPR calculation is to ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated. The new SLMCPRs preserve the existing margin to transition boiling.

The Minimum Critical Power Ratio (MCPR) safety limit is reevaluated for each reload using NRC-approved methodologies. The analyses for NMP2, Cycle 16, have concluded that a two recirculation loop MCPR safety limit of ≥ [greater than or equal to] 1.15, based on the application of Global Nuclear Fuel's NRC-approved MCPR safety limit methodology, will ensure that this acceptance criterion is met. For single recirculation loop operation, a MCPR safety limit of ≥ 1.15 also ensures that this acceptance criterion is met. The MCPR operating limits are presented and controlled in accordance with the NMP2 Core Operating Limits Report (COLR).

The requested TS changes do not involve any plant modifications or operational changes that could affect system reliability or performance or that could affect the probability of operator error. The requested changes do not affect any postulated accident precursors, do not affect any accident mitigating systems, and do not introduce any new accident initiation mechanisms.

Therefore, the proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The SLMCPR is a TS numerical value, calculated to ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated. The new SLMCPRs are calculated using NRC-approved methodology discussed in NEDE–24011–P–A, ''General Electric Standard Application for Reactor Fuel,'' Revision 21. The proposed changes do not involve any new modes of operation, any changes to setpoints, or any plant modifications. The proposed revised MCPR safety limits have been shown to be acceptable for Cycle 16 operation. The core operating limits will continue to be developed using NRC-approved methods. The proposed MCPR safety limits or methods for establishing the core operating limits do not result in the creation of any new precursors to an accident.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

There is no significant reduction in the margin of safety previously approved by the NRC as a result of the proposed change to the SLMCPRs. The new SLMCPRs are calculated using methodology discussed in NEDE–24011–P–A, ''General Electric Standard Application for Reactor Fuel,'' Revision 21. The SLMCPRs ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated, thereby preserving the fuel cladding integrity.

Therefore, the proposed TS changes do not involve a significant reduction in the margin of safety previously approved by the NRC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Senior Vice President, Regulatory Affairs, Nuclear, and General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, Illinois 60555.

NRC Branch Chief: Benjamin G. Beasley.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station (CNS), Nemaha County, Nebraska

Date of amendment request: August 6, 2015. A publicly-available version is in ADAMS under package Accession No. ML15229A031.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment would revise the CNS Technical Specifications (TS) by relocating pressure and temperature (P/T) limit curves to a pressure and temperature limits report (PTLR). The proposed amendment would modify TS Section 3.4.9, ''RCS [Reactor Coolant System] Pressure and Temperature (P/T) Limits,'' by replacing the existing reactor vessel heatup and cooldown rate limits and the P/T limit curves with references to the PTLR. A definition for the PTLR will be added to TS Section 1.1, ''Definitions,'' and a section addressing administrative requirements for the PTLR will be added to TS Section 5.6, ''Reporting Requirements.'' The existing CNS NRC-approved P/T limit curves for 32 effective full-power years are not being revised as a part of this relocation. In addition, editorial corrections are being made to the TS Table of Contents.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment revises the TS by replacing references to existing reactor vessel heatup and cooldown rate limits and P/T limit curves with references to the PTLR. In 10 CFR 50, Appendix G, requirements are established to protect the integrity of the reactor coolant pressure boundary (RCPB) in nuclear power plants.

Continued use of an Nuclear Regulatory Commission (NRC)-approved methodology for calculating P/T limit curves and relocating those curves to a PTLR provide an equivalent level of assurance that RCPB integrity will be maintained, as specified in 10 CFR 50, Appendix G.

The proposed amendment does not adversely affect accident initiators or precursors, and does not alter the design assumptions, conditions, or configuration of the plant or the manner in which the plant is operated and maintained. The ability of structures, systems, and components to perform their intended safety functions is not altered or prevented by the proposed changes, and the assumptions used in determining the radiological consequences of previously evaluated accidents are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The relocation of P/T limits to the PTLR is administrative in nature and does not alter or involve any design basis accident initiators. RCPB integrity will continue to be maintained in accordance with 10 CFR 50, Appendix G, and the accident performance of plant structures, systems, and components will not be affected. These changes do not involve any physical alteration of the plant, and installed equipment is not being operated in a new or different manner. Thus, no new failure modes are introduced.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment is administrative in nature and does not affect the function of the RCPB or its response during plant transients. Continuing to calculate the P/T limits using NRC-approved methodology ensures adequate margins of safety relating to RCPB integrity are maintained. The proposed changes do not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined, there are no changes to set points at which protective actions are initiated, and the operability requirements for equipment assumed to operate for accident mitigation are not affected.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John C. McClure, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602–0499.

NRC Branch Chief: Michael T. Markley.

Southern Nuclear Operating Company (SNC), Docket No. 50–321, Edwin I. Hatch Nuclear Plant (HNP), Unit 1, Appling County, Georgia

Date of amendment request: September 1, 2015. A publicly-available versions is in ADAMS under Accession No. ML15252A186.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would change the Technical Specification value of the Safety Limit Minimum Critical Power Ratio (SLMCPR) for both single and dual recirculation loop operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not involve a significant hazards consideration because:

1. The operation of HNP Unit 1 in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Safety Limit Minimum Critical Power Ratio (SLMCPR) ensures that, 99.9% of the fuel rods in the core will not be susceptible to boiling transition during normal operation or the most limiting postulated design-basis transient event. The new SLMCPR values preserve the existing margin to the onset of transition boiling; therefore, the probability of fuel damage is not increased as a result of this proposed change. The determination of the revised HNP Unit 1 SLMCPRs has been performed using NRC-approved methods of evaluation. These plant-specific calculations are performed each operating cycle and may require changes for future cycles. The revised SLMCPR values do not change the method of operating the plant; therefore, they have no

effect on the probability of an accident initiating event or transient.

Based on the above, SNC has concluded that the proposed change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of HNP Unit 1 in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes result only from a specific analysis for the HNP Unit 1 core reload design. These changes do not involve any new or different methods for operating the facility. No new initiating events or transients result from these changes.

Based on the above, SNC has concluded that the proposed change will not create the possibility of a new or different kind of accident from those previously evaluated.

3. The operation of HNP Unit 1 in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

The new SLMCPRs have been calculated using NRC-approved methods of evaluation with plant and cycle-specific input values for the fuel and core design for the upcoming cycle of operation. The SLMCPR values ensure that 99.9% of the fuel rods in the core will not be susceptible to boiling transition during normal operation or the most limiting postulated design-basis transient event. The operating MCPR limit is set appropriately above the safety limit value to ensure adequate margin when the cycle-specific transients are evaluated. Accordingly, the margin of safety is maintained with the revised values.

As a result, SNC has determined that the proposed change will not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jennifer M. Buettner, Associate General Counsel, Southern Nuclear Operating Company, 40 Inverness Center Parkway, Birmingham, Alabama 35201.

NRC Branch Chief: Robert Pascarelli.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois; and Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Exelon Generation Company, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Southern Nuclear Operating Company, Docket No. 50–321, Edwin I. Hatch Nuclear Plant, Unit 1, Appling County, Georgia

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov*, respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 23rd day of October, 2015.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2015–27753 Filed 11–2–15; 8:45 am]

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[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

POSTAL REGULATORY COMMISSION

[Docket No. CP2015–92; Order No. 2789]

Amendment to Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to Priority Mail Contract 128 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 5, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On October 27, 2015, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Contract 128 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service included a redacted copy of the Amendment.

The Postal Service also filed the unredacted Amendment under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. *Id.*

The Amendment implements changes as contemplated by the terms of the original contract.

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. 3633. *Id.*

[1] Notice of United States Postal Service of Amendment to Priority Mail Contract 128, with Portions Filed Under Seal, October 27, 2015 (Notice).

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than November 5, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Cassie D'Souza to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2015–92 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Cassie D'Souza to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than November 5, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2015–27971 Filed 11–2–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76288; File No. SR–CBOE–2015–096]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fees Schedule

October 28, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 20, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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 amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule, effective October 20, 2015. Specifically, commencing October 20, 2015, the Exchange will list new options on three FTSE Russell Indexes. More specifically, the Exchange proposes to establish fees for the Russell 1000 Index (''RUI''), Russell 1000 Value Index (''RLV'') and Russell 1000 Growth Index (''RLG'').

By way of background, a specific set of proprietary products are commonly included or excluded from a variety of programs, qualification calculations and transactions fees. In lieu of listing out these products in various sections of the Fees Schedule, the Exchange uses the term ''Underlying Symbol List A,'' to represent these products. Currently, Underlying Symbol List A is defined in Footnote 34 and represents the following proprietary products: OEX, XEO, RUT, SPX (including SPXw), SPXpm, SRO, VIX, VXST, VOLATILITY INDEXES and binary options. The Exchange notes that the reason the products in Underlying Symbol List A are often collectively included or excluded from certain programs, qualification calculations and

transactions fees is because the Exchange has expended considerable resources developing and maintaining its proprietary, exclusively-listed products. Similar to the products currently represented by ''Underlying Symbol List A,'' RUI, RLV and RLG are not listed on any other exchange. As such, the Exchange proposes to exclude or include RUI, RLV and RLG in the same programs as the other products in Underlying Symbol List A, as well as add RUI, RLV and RLG to the definition of Underlying Symbol List A in Footnote 34. Specifically, like the other products in Underlying Symbol List A, the Exchange proposes to except RUI, RLV and RLG from the Liquidity Provider Sliding Scale, the Marketing Fee, the Clearing Trading Permit Holder Fee Cap (''Fee Cap'') and exemption from fees for facilitation orders, and the Order Router Subsidy (ORS) and Complex Order Router Subsidy (CORS) Programs. Like all other products in Underlying Symbol List A (with the exception of SROs), the Exchange proposes to apply to RUI, RLV and RLG the CBOE Proprietary Products Sliding Scale. Unlike the products in Underlying Symbol List A, the Exchange does intend to keep RUI, RLV and RLG volume in the calculation of qualifying volume for the rebate of Floor Broker Trading Permit fees. The Exchange notes that although RUI, RLV and RLG are being added to ''Underlying Symbol List A'', it wishes to include RUI, RLV and RLG in the calculation of the qualifying volume for the rebate of Floor Broker Trading Permit fees. The Exchange wishes to continue to encourage Floor Brokers to execute open-outcry trades in these classes and believes that include [sic] them in the qualifying volume will provide such incentive. The Exchange finally notes, that similarly, RUT is also included in the calculation of the qualifying volume of the rebate of Floor Broker Trader Permit Fees, notwithstanding its inclusion in Underlying Symbol List A.

The Exchange next proposes to establish transaction fees for RUI, RLV, and RLG. Particularly, the Exchange proposes to assess the same fees for RUI, RLV, and RLG as apply to Russell 2000 Index (''RUT'') options. Transaction fees for RUI, RLV, and RLG options will be as follows (all listed rates are per contract):

Customer	$0.18
Clearing Trading Permit Holder Proprietary	.25
CBOE Market-Maker/DPM	0.20
Joint Back-Office, Broker-Dealer, Non-Trading Permit Holder Market-Maker, Professional/Voluntary Professional (non-AIM Electronic)	0.65
Joint Back-Office, Broker-Dealer, Non-Trading Permit Holder Market-Maker, Professional/Voluntary Professional (Manual and AIM)	0.25

The Exchange also proposes to apply to RUI, RLV, and RLG, like RUT, the Floor Brokerage Fee of $0.04 per contract ($0.02 per contract for crossed orders). The Exchange also proposes to apply to RUI, RLV and RLG the CFLEX Surcharge Fee of $0.10 per contract for all RUI, RLV and RLG orders executed electronically on CFLEX, capped at $250 per trade (*i.e.,* first 2,500 contracts per trade). The CFLEX Surcharge Fee assists the Exchange in recouping the cost of developing and maintaining the CFLEX system. The Exchange notes that the CFLEX Surcharge Fee (and $250 cap) also applies to other proprietary index options, including products in Underlying Symbol List A.

The Exchange currently assesses an Index License Surcharge for RUT of $0.45 per contract for all non-customer orders. Because the fees associated with the license for RUI, RLV and RLG are lower than the license fees for RUT, the Exchange proposes to assess a Surcharge o [sic] $0.10 per contract in order to recoup the costs associated with the RUI, RLV and RLG license.

In order to promote and encourage trading of RUI, RLV and RLG, the Exchange proposes to waive all transaction fees (including the Floor Brokerage Fee, Index License Surcharge and CFLEX Surcharge Fee) for RUI, RLV and RLG transactions through December 31, 2015. The Exchange proposes to add Footnote 40 to the Fees Schedule to make clear that transaction fees will be waived through the end of the year.

Finally, the Exchange proposes to make other non-substantive cleanup changes to the Fees Schedule. First, the Exchange proposes to replace the reference to the proprietary products listed in the Customer row of the Index Options Rate Table—All Index Products Excluding Underlying Symbol List A with the term ''Underlying Symbol List A''. The Exchange notes that when it had adopted the term ''Underlying Symbol List A'', it had inadvertently not included it in this particular instance. To maintain consistency throughout the Fees Schedule, the Exchange proposes adding ''Underlying Symbol List A'' to the Customer row of the Index Options Rate Table—All Index Products Excluding Underlying Symbol List A. Next, the Exchange proposes to delete the reference to ''RUT'' in the Volume Incentive Program table and Footnote 36. The Exchange notes that it also inadvertently failed to delete these particular references to RUT when RUT became part of Underlying Symbol List A. As Underlying Symbol List A is already provided for in both sections (and RUT is included in Underlying Symbol List A) it is repetitive and unnecessary to maintain the additional references to ''RUT''. The Exchange believes the proposed cleanup changes will alleviate potential confusion.

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.[3] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[4] 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. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[5] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

Particularly, the Exchange believes it is reasonable to charge different fee amounts to different user types in the manner proposed because the proposed fees are consistent with the price differentiation that exists today for other index products, including RUT. The Exchange also believes that the proposed fee amounts for RUI, RLV and RLG orders are reasonable because the proposed fee amounts are the same [sic] already assessed for a similar product, RUT, as well as are within the range of amounts assessed for the Exchange's other proprietary products.[6]

The Exchange believes that it is equitable and not unfairly

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78f(b)(4).

[6] *See* CBOE Fees Schedule, Specified Proprietary Index Options Rate Table.

discriminatory to assess lower fees to Customers as compared to other market participants because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The fees offered to customers are intended to attract more customer trading volume to the Exchange. Moreover, the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current Fees Schedule currently does so in many places, as do the fees structures of many other exchanges. Finally, all fee amounts listed as applying to Customers will be applied equally to all Customers (meaning that all Customers will be assessed the same amount).

The Exchange believes that it is equitable and not unfairly discriminatory to, [sic] assess lower fees to Market-Makers as compared to other market participants other than Customers because Market-Makers, unlike other market participants, take on a number of obligations, including quoting obligations, that other market participants do not have. Further, these lower fees offered to Market-Makers are intended to incent Market-Makers to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants. Additionally, the proposed fee for Market-Makers will be applied equally to all Market-Makers (meaning that all Market-Makers will be assessed the same amount). This concept also applies to orders from all other origins. It should also be noted that all fee amounts described herein are intended to attract greater order flow to the Exchange in RUI, RLV and RLG which should therefore serve to benefit all Exchange market participants. Similarly, it is equitable and not unfairly discriminatory to assess lower fees to Clearing Trading Permit Holder Proprietary orders than those of other market participants (except Customers and Market-Makers) because Clearing Trading Permit Holders also have a number of obligations (such as membership with the Options Clearing Corporation), significant regulatory burdens, and financial obligations, that other market participants do not need to take on. The Exchange also notes that the RUI, RLV and RLG fee amounts for each separate type of market participant will be assessed equally to all such market participants (*i.e.* all Broker-Dealer orders will be assessed the same amount, all Joint Back-Office orders will be assessed the same amount, etc.).

The Exchange believes the proposed AIM transaction fees for Brokers Dealers, Non-Trading Permit Holder Market-Makers, Professionals/Voluntary Professionals, JBOs and Customers are reasonable because the amounts are still lower than assessed for AIM transactions in other proprietary products.[7] The Exchange believes it's equitable and not unfairly discriminatory to assess lower fees for AIM executions as compared to electronic executions because AIM is a price-improvement mechanism, which the Exchange wishes to encourage and support.

Assessing the Floor Brokerage Fee of $0.04 per contract for non-crossed orders and $0.02 per contract for crossed orders to Floor Brokers (and not other market participants) trading RUI, RLV and RLG orders is equitable and not unfairly discriminatory because only Floor Brokers are statutorily capable of representing orders in the trading crowd, for which they charge a commission. Moreover, this fee is already assessed, in the same amounts, to the other products in Underlying Symbol List A, including RUT.

The Exchange believes that assessing an Index License Surcharge Fee of $0.10 per contract to RUI, RLV and RLG transactions is reasonable because the Surcharge helps recoup some of the costs associated with the license for RUI, RLV and RLG options. Additionally, the Exchange notes that the Surcharge amount is the same as, and in some cases lower than, the amount assessed as an Index License Surcharge to other index products. The proposed Surcharge is also equitable and not unfairly discriminatory because the amount will be assessed to all market participants to whom the Surcharge applies. Not applying the RUI, RLV and RLG Index License Surcharge Fee to Customer orders is equitable and not unfairly discriminatory because this is designed to attract Customer RUI, RLV and RLG orders, which increases liquidity and provides greater trading opportunities to all market participants. Additionally, it is equitable and not unfairly discriminatory to assess a lower License Index Surcharge amount to RUI, RLV and RLG transactions as compared to RUT transactions because the costs of the license associated with RUT is greater.

Similarly, the Exchange believes assessing a CFLEX Surcharge Fee of $0.10 per contract for all RUI, RLV and RLG orders executed electronically on CFLEX and capping it at $250 (*i.e.,* first 2,500 contracts per trade) is reasonable because it is the same amount currently charged to other proprietary index products for the same transactions.[8] The proposed Surcharge is also equitable and not unfairly discriminatory because the amount will be assessed to all market participants to whom the CFLEX Surcharge applies.

Excepting RUI, RLV and RLG from the Liquidity Provider Sliding Scale, the Marketing Fee, the Fee Cap, and the exemption from fees for facilitation orders is reasonable because other Underlying Symbol List A products (*i.e.,* other products that are exclusively-listed) are excepted from those same items. This is equitable and not unfairly discriminatory for the same reason; it seems equitable to except RUI, RLV and RLG from items on the Fees Schedule from which other proprietary products are also excepted.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to waive all transaction fees, including the Floor Brokerage fee, the License Index Surcharge and CFLEX Surcharge Fee because it promotes and encourages trading of these new products and applies to all Trading Permit Holders (''TPHs'').

Applying to [sic] RUI, RLV and RLG to the CBOE Proprietary Products Sliding Scale is reasonable because it also applies to other Underlying Symbol List A products. This is equitable and not unfairly discriminatory for the same reason; it seems equitable to apply to RUI, RLV and RLG the same items on the Fees Schedule that apply to Underlying Symbol List A options classes (*i.e.,* proprietary options classes that are not listed on other exchanges).

The Exchange believes it's reasonable, equitable and not unfairly discriminatory to continue to include RUI, RLV and RLG in the calculation of the qualifying volume for the Floor Broker Trading Permit Fees rebate because the Exchange wishes to support and encourage open-outcry trading of RUI, RLV and RLG, which allows for price improvement and has a number of positive impacts on the market system.

Finally, the Exchange notes that it always strives for clarity in its rules and

[7] *Id.*

[8] *See* CBOE Fees Schedule, Index Options Rate Table—All Index Products Excluding Underlying Symbol List A, CFLEX Surcharge Fee and Specified Proprietary Index Options Rate Table—Underlying Symbol List A, CFLEX Surcharge Fee.

Fees Schedule, so that market participants may best understand how rules and fees apply. The Exchange believes that the proposed clarifications and removal of repetitive language in the Fees Schedule will make the Fees Schedule easier to read and alleviate potential confusion. The alleviation of potential confusion will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different fees are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances as discussed above. For example, Market-Makers have quoting obligations that other market participants do not have. The Exchange does not believe that the proposed rule change to waive all transaction fees through December 2015 will impose any burden on intramarket competition because it applies to all TPHs and encourages trading in these new products.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because RUI, RLV and RLG will be exclusively listed on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and paragraph (f) of Rule 19b–4 [10] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–CBOE–2015–096 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE-*2015–096.* 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 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–CBOE-*2015–096* and should be submitted on or before November 24, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27913 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76293; File No. SR–BATS–2015–96]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Period of the BATS Exchange, Inc.'s Supplemental Competitive Liquidity Provider Program

October 28, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 27, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to extend the pilot period for the Exchange's Supplemental Competitive Liquidity Provider Program (the ''Program''), which is currently set to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

expire on October 28, 2015, for three months, to expire on January 28, 2016.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing and delisting of securities of issuers on the Exchange.[5] More recently, the Exchange received approval to operate a pilot program that is designed to incentivize certain Market Makers[6] registered with the Exchange as ETP CLPs, as defined in Interpretation and Policy .03 to Rule 11.8, to enhance liquidity on the Exchange in certain ETPs[7] listed on the Exchange and thereby qualify to receive part of a daily rebate as part of the Program under Interpretation and Policy .03 to Rule 11.8.[8]

The Program was approved by the Commission on a pilot basis running one-year from the date of implementation.[9] The Commission approved the Program on July 28, 2014.[10] The Exchange implemented the Program on July 28, 2014 and the pilot period for the Program was originally scheduled to end on July 28, 2015 until it was extended to end on October 28, 2015.[11]

Proposal To Extend the Operation of the Program

The Exchange established the Program in order to enhance liquidity on the Exchange in certain ETPs listed on the Exchange (and thereby enhance the Exchange's ability to compete as a listing venue) by providing a mechanism by which ETP CLPs compete for part of a daily quoting incentive on the basis of providing the most aggressive quotes with the greatest amount of size. Such competition has the ability to reduce spreads, facilitate the price discovery process, and reduce costs for investors trading in such securities, thereby promoting capital formation and helping the Exchange to compete as a listing venue. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to analyze data regarding the Program that the Exchange has committed to provide.[12] As such, the Exchange believes that it is appropriate to extend the current operation of the Program. Further information related to the Program including data can be found on the Exchange's Web site.[13] Through this filing, the Exchange seeks to extend the current pilot period of the Program until January 28, 2016.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[14] In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,[15] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that extending the pilot period for the Program is consistent with these principles because the Program is reasonably designed to enhance quote competition, improve liquidity in securities listed on the Exchange, support the quality of price discovery, promote market transparency, and increase competition for listings and trade executions, while reducing spreads and transaction costs in such securities. Maintaining and increasing liquidity in Exchange-listed securities will help raise investors' confidence in the fairness of the market and their transactions. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change extends an established pilot program for 3 months, thus allowing the Program to enhance competition in both the listings market and in competition for market makers. The Program will continue to promote competition in the listings market by providing issuers with a vehicle for paying the Exchange additional fees in exchange for incentivizing tighter spreads and deeper liquidity in listed securities and allow the Exchange to continue to compete with similar programs at Nasdaq Stock Market LLC[16] and NYSE Arca Equities, Inc.[17]

The Exchange also believes that extending the pilot program for an additional 3 months will allow the Program to continue to enhance competition among market participants by creating incentives for market makers to compete to make better quality markets. By continuing to require that market makers both meet the quoting requirements and also compete for the daily financial incentives, the quality of quotes on the Exchange will continue to improve. This, in turn, will attract more liquidity to the Exchange and further improve the quality of trading in exchange-listed securities participating in the Program, which will also act to bolster the Exchange's listing business.

[5] *See* Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[6] As defined in BATS Rules, the term ''Market Maker'' means a Member that acts a as a market maker pursuant to Chapter XI of BATS Rules.

[7] ETP is defined in Interpretation and Policy .03(b)(4) to Rule 11.8.

[8] *See* Securities Exchange Act Release No. 72692 (July 28, 2014), 79 FR 44908 (August 1, 2014) (SR–BATS–2014–022) (''CLP Approval Order'').

[9] *See id* at 44909.

[10] *Id.*

[11] *See* Securities Exchange Act Release No. 75518 (July 24, 2015), 80 FR 45566 (July 30, 2015 (SR–BATS–2015–55).

[12] *See* CLP Approval Order, *supra* note 8 at 44913.

[13] *See http://www.bats.com/us/equities/etfmarketplace/trade_on_bats/clp/reports/.*

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* Securities Exchange Act Release No. 69195 (March 20, 2013), 78 FR 18393 (March 26, 2013) (SR–NASDAQ–2012–137).

[17] *See* Securities Exchange Act Release No. 69335 (April 5, 2013), 78 FR 35340 (June 12, 2013) (SR–NYSEARCA–2013–34).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative before 30 days from the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the operative delay will allow the Exchange to extend the Program prior to its expiration on October 28, 2015, which will ensure that the Program continues to operate uninterrupted while the Exchange and the Commission continue to analyze data regarding the Program. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR–BATS–2015–96 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 No. SR–BATS–2015–96. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2015–96 and should be submitted on or before November 23, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27908 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31884; File No. 812–14512]

SPDR® Series Trust, et al.; Notice of Application

October 28, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Creation Units for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

APPLICANTS: SPDR® Series Trust, SPDR® Index Shares Funds (together, the ''Trusts''), SSGA Funds Management, Inc. (''Initial Adviser'') and State Street Global Markets, LLC (''Distributor'').

FILING DATES: The application was filed on July 13, 2015, and amended on

September 30, 2015 and October 27, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 23, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: One Lincoln Street, Boston, MA 02111.

FOR FURTHER INFORMATION CONTACT: Robert Shapiro, Senior Counsel at (202) 551–7758, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each Trust is a business trust organized under the laws of the Commonwealth of Massachusetts and is registered with the Commission as an open-end management investment company that offers multiple series.

2. The Initial Adviser will be the investment adviser to the Initial Fund (defined below). The Initial Adviser is, and any other Adviser (defined below) will be, registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Distributor, a broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'') and a member of the Financial Industry Regulatory Authority, serves as the principal underwriter for the Trusts. The Distributor will not be affiliated with any Exchange (defined below).

4. Applicants request that the order apply to a new series, the Large Cap ETF (''Initial Fund''), and any additional series of a Trust, and any other open-end management investment company or series thereof, that may be created in the future (''Future Funds''), each of which will operate as an exchange traded fund (''ETF'') and will track a specified Affiliated Index (as defined below) comprised of domestic and/or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by the Initial Adviser, or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application. The Initial Fund and Future Funds, together, are the ''Funds.'' [1]

5. Each Fund will hold certain securities, currencies, other assets and other investment positions (''Portfolio Holdings'') selected to correspond to the performance of its Underlying Index. Certain of the Funds will be based on Underlying Indexes that will be comprised of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised of foreign and domestic, or solely foreign, equity and/or fixed income securities (''Foreign Funds'').

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions,[2] and in the case of Foreign Funds, Component Securities and Depositary Receipts [3] representing Component Securities. Each Fund may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all, of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

8. The Funds will be entitled to use their Underlying Indexes pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains an Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the Adviser, which has or will have a licensing agreement with such Index Provider.[4] An affiliated

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[3] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[4] The licenses for the Funds will specifically state that the Affiliated Index Provider (or in case of a sub-licensing agreement, the Adviser) must provide the use of the Underlying Indexes and related

Continued

person, as defined in section 2(a)(3) of the Act (an ''Affiliated Person''), or an affiliated person of an Affiliated Person (a ''Second-Tier Affiliate''), of a Trust or a Fund, of an Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') [5] will serve as the Index Provider to each Fund. An Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[6]

9. Applicants recognize that the Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of a Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated.

10. Applicants propose that each day that the Trust, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Fund will post on its Web site, before commencement of trading of Shares on the Exchange, the identities and quantities of the Portfolio Holdings that will form the basis for the Fund's calculation of its NAV at the end of the Business Day.[7] Applicants believe that requiring the Funds to maintain full portfolio transparency will provide an additional effective mechanism for addressing any such potential conflicts of interest.

11. In addition, applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Funds.

12. Each Adviser and any Sub-Adviser has adopted or will adopt, pursuant to rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Initial Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Initial Adviser or associated persons (''Inside Information Policy''). Any other Adviser and/or Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [8] and Inside Information Policy of each Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of a Portfolio Deposit [9] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

13. To the extent the Funds transact with an Affiliated Person of an Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Fund's board of directors or trustees (''Board'') will periodically review the Fund's use of an Affiliated Index Provider. Subject to the approval of the Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission.

14. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[10] On any given Business

intellectual property at no cost to the Trusts and the Funds.

[5] In the event that an Adviser or Sub-Adviser serves as the Affiliated Index Provider for a Fund, the terms ''Affiliated Index Provider'' or ''Index Provider,'' with respect to that Fund, will be limited to the employees of the applicable Adviser or Sub-Adviser that are responsible for creating, compiling and maintaining the relevant Underlying Index.

[6] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[7] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[8] The Initial Adviser has also adopted (and any other Adviser has adopted or will adopt) a code of ethics pursuant to rule 17j–1 under the Act and rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in rule 17j–1) from engaging in any conduct prohibited in rule 17j–1 (''Code of Ethics'').

[9] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

[10] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration

Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) [11] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots; [12] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind [13] will be excluded from the Deposit Instruments and the Redemption Instruments; [14] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio; [15] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

15. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; [16] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[17]

16. Creation Units will consist of specified large aggregations of Shares, *e.g.,* at least 25,000 Shares, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

17. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange or other major market data provider will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association or other widely disseminated means, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

18. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the

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under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[11] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[12] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[13] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[14] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[15] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants (as defined below) on a given Business Day.

[16] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[17] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

Transaction Fees will be borne only by such purchasers or redeemers.[18] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

19. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

20. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[19] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

21. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

22. Neither a Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing

[18] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[19] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for the underlying foreign securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fourteen (14) calendar days. Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fourteen (14) calendar days following the tender of Creation Units for redemption.[20]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fourteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fourteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser and are not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[21] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Funds,

[20] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

[21] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[22]

[22] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

Sections 17(a)(1) and (2) of the Act

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Holdings currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing

Portfolio Holdings held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, applicants submit that, by using the same standards for valuing Portfolio Holdings held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[23] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[24] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of affiliated index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, Shares of such Fund will be listed on an Exchange.

3. Neither a Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser to a Fund, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned.

[23] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[24] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–l under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the relevant Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27907 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Extension: Rule 17Ad–16; SEC File No. 270–363, OMB Control No. 3235–0413]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information

provided for in Rule 17Ad–16 (17 CFR 240.17Ad–16) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17Ad–16 requires a registered transfer agent to provide written notice to the appropriate qualified registered securities depository when assuming or terminating transfer agent services on behalf of an issuer or when changing its name or address. In addition, transfer agents that provide such notice shall maintain such notice for a period of at least two years in an easily accessible place. This rule addresses the problem of certificate transfer delays caused by transfer requests that are directed to the wrong transfer agent or the wrong address.

We estimate that the transfer agent industry submits 6,970 Rule 17Ad–16 notices to appropriate qualified registered securities depositories. The staff estimates that the average amount of time necessary to create and submit each notice is approximately 15 minutes per notice. Accordingly, the estimated total industry burden is 1,743 hours per year (15 minutes multiplied by 6,970 notices filed annually).

Because the information needed by transfer agents to properly notify the appropriate registered securities depository is readily available to them and the report is simple and straightforward, the cost is relatively minimal. The average internal compliance cost to prepare and send a notice is approximately $7.50 (15 minutes at $30 per hour). This yields an industry-wide internal compliance cost estimate of $52,275 (6,970 notices multiplied by $7.50 per notice).

Written comments are invited on: (a) 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; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 28, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27905 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, November 5, 2015 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Adjudicatory matters;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: October 29, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–28027 Filed 10–30–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Rule 206(4)–2; SEC File No. 270–217, OMB Control No. 3235–0241.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 206(4)–2 (17 CFR 275.206(4)–2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*) governs the custody of funds or securities of clients by Commission-registered investment advisers. Rule 206(4)–2 requires each registered investment adviser that has custody of client funds or securities to maintain those client funds or securities with a broker-dealer, bank or other ''qualified custodian.'' [1] The rule requires the adviser to promptly notify clients as to the place and manner of custody, after opening an account for the client and following any changes.[2] If an adviser sends account statements to its clients, it must insert a legend in the notice and in subsequent account statements sent to those clients urging them to compare the account statements from the custodian with those from the adviser.[3] The adviser also must have a reasonable basis, after due inquiry, for believing that the qualified custodian maintaining client funds and securities sends account statements directly to the advisory clients, and undergo an annual surprise examination by an independent public accountant to verify client assets pursuant to a written agreement with the accountant that specifies certain duties.[4] Unless client assets are maintained by an independent custodian (*i.e.,* a custodian that is not the adviser itself or a related person), the adviser also is required to obtain or receive a report of the internal controls relating to the custody of those assets from an independent public accountant

[1] Rule 206(4)–2(a)(1).

[2] Rule 206(4)–2(a)(2).

[3] Rule 206(4)–2(a)(2).

[4] Rule 206(4)–2(a)(3), (4).

that is registered with and subject to regular inspection by the Public Company Accounting Oversight Board (''PCAOB'').[5]

The rule exempts advisers from the rule with respect to clients that are registered investment companies. Advisers to limited partnerships, limited liability companies and other pooled investment vehicles are excepted from the account statement delivery and deemed to comply with the annual surprise examination requirement if the limited partnerships, limited liability companies or pooled investment vehicles are subject to annual audit by an independent public accountant registered with, and subject to regular inspection by the PCAOB, and the audited financial statements are distributed to investors in the pools.[6] The rule also provides an exception to the surprise examination requirement for advisers that have custody because they have authority to deduct advisory fees from client accounts and advisers that have custody solely because a related person holds the adviser's client assets and the related person is operationally independent of the adviser.[7]

Advisory clients use this information to confirm proper handling of their accounts. The Commission's staff uses the information obtained through this collection in its enforcement, regulatory and examination programs. Without the information collected under the rule, the Commission would be less efficient and effective in its programs and clients would not have information valuable for monitoring an adviser's handling of their accounts.

The respondents to this information collection are investment advisers registered with the Commission and have custody of clients' funds or securities. We estimate that 5,228 advisers would be subject to the information collection burden under rule 206(4)–2. The number of responses under rule 206(4)–2 will vary considerably depending on the number of clients for which an adviser has custody of funds or securities, and the number of investors in pooled investment vehicles that the adviser manages. It is estimated that the average number of responses annually for each respondent would be 6,830, and an average time of 0.02286 hour per response. The annual aggregate burden for all respondents to the requirements of rule 206(4)–2 is estimated to be 816,285 hours.

The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 28, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27915 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76205; File No. SR–BATS–2015–90]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.25, Retail Order Attribution Program

October 21, 2015.

Correction

In notice document 2015–27221, appearing on pages 65828–65830 in the issue of Tuesday, October 27, 2015, make the following correction:

On page 65830, in the second column, in the eighth line from the bottom, ''November 16, 2015'' should read ''November 17, 2015''.

[FR Doc. C1–2015–27221 Filed 11–2–15; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Rule 15c3–4; SEC File No. 270–441, OMB Control No. 3235–0497.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in Rule 15c3–4 (17 CFR 240.15c3–4) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15c3–4 requires certain broker-dealers that are registered with the Commission as OTC derivatives dealers, or who compute their net capital charges under Appendix E to Rule 15c3–1 (17 CFR 240.15c3–1) (''ANC firms''), to establish, document, and maintain a system of internal risk management controls. The Rule sets forth the basic elements for an OTC derivatives dealer or an ANC firm to consider and include when establishing, documenting, and reviewing its internal risk management control system, which are designed to, among other things, ensure the integrity of an OTC derivatives dealer's or an ANC firm's risk measurement, monitoring, and management process, to clarify accountability at the appropriate organizational level, and to define the permitted scope of the dealer's activities and level of risk. The Rule also requires that management of an OTC derivatives dealer or an ANC firm must periodically review, in accordance with written procedures, the firm's business activities for consistency with its risk management guidelines.

The staff estimates that the average amount of time a new OTC derivatives dealer will spend establishing and documenting its risk management control system is 2,000 hours and that, on average, a registered OTC derivatives dealer will spend approximately 200 hours each year to maintain (*e.g.,* reviewing and updating) its risk management control system.[1] Currently,

[5] Rule 206(4)–2(a)(6).

[6] Rule 206(4)–2(b)(4).

[7] Rule 206(4)–2(b)(3), (b)(6).

[1] This notice does not cover the hour burden associated with ANC firms, because the hour burden for ANC firms is included in the Paperwork

four firms are registered with the Commission as OTC derivatives dealers. The staff estimates that approximately two additional OTC derivatives dealers may become registered within the next three years. Thus, the estimated annualized burden would be 800 hours for the four OTC derivatives dealers currently registered with the Commission to maintain their risk management control systems,[2] 1,334 hours for the two new OTC derivatives dealers to establish and document their risk management control systems,[3] and 400 hours for the two new OTC derivatives dealers to maintain their risk management control systems.[4] Accordingly, the staff estimates the total annualized burden associated with Rule 15c3–4 for the six OTC derivatives dealers will be approximately 2,534 hours annually.

The staff believes that the internal cost of complying with Rule 15c3–4 will be approximately $283 per hour.[5] This per hour cost is based upon an annual average hourly salary for a compliance manager who would be responsible for ensuring compliance with the requirements of Rule 15c3–4. Accordingly, the total annualized internal cost of compliance for all affected OTC derivatives dealers is estimated to be $717,122.[6]

Written comments are invited on: (a) 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; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@SEC.gov.*

Dated: October 28, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27904 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Extension: Rule 3a–4; SEC File No. 270–401, OMB Control No. 3235–0459]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 3a–4 (17 CFR 270.3a–4) under the Investment Company Act of 1940 (15 U.S.C. 80a) (''Investment Company Act'' or ''Act'') provides a nonexclusive safe harbor from the definition of investment company under the Act for certain investment advisory programs. These programs, which include ''wrap fee'' programs, generally are designed to provide professional portfolio management services on a discretionary basis to clients who are investing less than the minimum investments for individual accounts usually required by the investment adviser but more than the minimum account size of most mutual funds. Under wrap fee and similar programs, a client's account is typically managed on a discretionary basis according to pre-selected investment objectives. Clients with similar investment objectives often receive the same investment advice and may hold the same or substantially similar securities in their accounts. Because of this similarity of management, some of these investment advisory programs may meet the definition of investment company under the Act.

In 1997, the Commission adopted rule 3a–4, which clarifies that programs organized and operated in accordance with the rule are not required to register under the Investment Company Act or comply with the Act's requirements. These programs differ from investment companies because, among other things, they provide individualized investment advice to the client. The rule's provisions have the effect of ensuring that clients in a program relying on the rule receive advice tailored to the client's needs.

For a program to be eligible for the rule's safe harbor, each client's account must be managed on the basis of the client's financial situation and investment objectives and in accordance with any reasonable restrictions the client imposes on managing the account. When an account is opened, the sponsor (or its designee) must obtain information from each client regarding the client's financial situation and investment objectives, and must allow the client an opportunity to impose reasonable restrictions on managing the account. In addition, the sponsor (or its designee) must contact the client annually to determine whether the client's financial situation or investment objectives have changed and whether the client wishes to impose any reasonable restrictions on the management of the account or reasonably modify existing restrictions. The sponsor (or its designee) must also notify the client quarterly, in writing, to contact the sponsor (or its designee) regarding changes to the client's financial situation, investment objectives, or restrictions on the account's management.

Additionally, the sponsor (or its designee) must provide each client with a quarterly statement describing all activity in the client's account during the previous quarter. The sponsor and personnel of the client's account manager who know about the client's account and its management must be reasonably available to consult with the client. Each client also must retain certain indicia of ownership of all securities and funds in the account.

The Commission staff estimates that 16,537,781 clients participate each year in investment advisory programs relying on rule 3a–4. Of that number, the staff estimates that 4,918,064 are new clients and 11,619,717 are continuing clients. The staff estimates that each year the investment advisory program sponsors'

Reduction Act collection for Rule 15c3–1, which requires ANC firms to comply with specific provisions of Rule 15c3–4 in Appendix E to Rule 15c3–1. *See* 17 CFR 240.15c3–1(a)(7)(iii), 17 CFR 240.15c3–1e(a)(1)(ii), and 17 CFR 240.15c3–1e(a)(1)(viii)(C).

[2] (200 hours × 4 firms) = 800.

[3] ((2,000 hours/3 years) × 2 firms) = 1,334.

[4] (200 hours × 2 firms) = 400.

[5] The $283 per hour salary figure for a compliance manager is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[6] 2,534 hours × $283 per hour = $717,122.

staff engage in 1.5 hours per new client and 1 hour per continuing client to prepare, conduct and/or review interviews regarding the client's financial situation and investment objectives as required by the rule. Furthermore, the staff estimates that each year the investment advisory program sponsors' staff spends 1 hour per client to prepare and mail quarterly client account statements, including notices to update information. Based on the estimates above, the Commission estimates that the total annual burden of the rule's paperwork requirements is 35,534,594 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. 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 control number.

Written comments are invited on: (a) whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 28, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27916 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76198A; File No. SR–NYSEARCA–2015–58]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendment No. 1, Adopting New Equity Trading Rules Relating to Trading Halts, Short Sales, Limit Up-Limit Down, and Odd Lots and Mixed Lots to Reflect the Implementation of Pillar, the Exchange's New Trading Technology Platform; Correction

October 28, 2015.

AGENCY: Securities and Exchange Commission.

ACTION: Notice; correction.

SUMMARY: The Securities and Exchange Commission published a document in the **Federal Register** on October 26, 2015, concerning a Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendment No. 1, Adopting New Equity Trading Rules Relating to Trading Halts, Short Sales, Limit Up-Limit Down, and Odd Lots and Mixed Lots to Reflect the Implementation of Pillar, the Exchange's New Trading Technology Platform. The document contained typographical errors.

FOR FURTHER INFORMATION CONTACT: Sonia Trocchio, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, (202) 551–5648.

Correction

In the **Federal Register** of October 26, 2015 in FR Doc. 2015–27069, on page 65274, subsection (iii) of footnote 5, change the text, ''amend proposed Rule 7.16P(f)(5)(C) to clarify that the Exchange would treat all odd lot orders ranked Priority 2—Display Orders in the same manner as Market Orders and other non-displayed orders,'' to the text, ''remove references to odd lot orders in proposed Rule 7.16P(f)(5)''. On page 65276, in the 4th sentence of paragraph 3, remove the following language: ''of odd-lot orders that are ranked Priority 2,''. On page 65277, in the 1st sentence of the first full paragraph, change the text, ''amends proposed Rule 7.16P(f)(5)(C) to clarify that the Exchange would treat all odd lot orders ranked Priority 2—Display Orders in the same manner as Market Orders and other non-displayed orders,'' to the text, ''remove references to odd lot orders in proposed Rule 7.16P(f)(5)''

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27877 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76290; File No. SR–NYSE–2015–49]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 123D To Specify That Exchange Systems May Open One or More Securities Electronically if a Designated Market Maker Registered in a Security or Securities Cannot Facilitate the Opening of Trading as Required by Exchange Rules

October 28, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 16, 2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 123D to specify that Exchange systems may open one or more securities electronically if a Designated Market Maker registered in a security or securities cannot facilitate the opening of trading as required by Exchange rules. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 123D to specify that Exchange systems may open one or more securities electronically if a Designated Market Maker (''DMM'') registered in a security or securities cannot facilitate the open of trading as required by Exchange rules.[3]

Currently, Rule 123D provides that openings may be effected manually or electronically. However, the current rule contemplates that openings would be facilitated by a DMM, as provided for in Rule 104(a)(2). The Exchange proposes to re-number Rule 123D to provide that current Rule 123D(1) would be re-numbered as Rule 123D(a), and the heading would be amended to be referred to as ''Openings.'' [4] Proposed Rule 123D(a)(1) would include the current first paragraph of Rule 123D(1).

The Exchange proposes to add a new paragraph (a)(2) to Rule 123D to provide that, if a DMM cannot facilitate the open of trading for one or more securities for which the DMM is registered, the Exchange would open those securities electronically on a quote or a trade as provided for in paragraphs (a)(3)–(a)(6) of the proposed Rule. Proposed Rule 123D(a)(2) would further provide that manually-entered Floor interest would not participate in any open effected electronically by the Exchange and if previously entered, would be ignored. Finally, proposed Rule 123D(a)(2) would provide that, unless otherwise specified, references to an open or opening in proposed Rules 123D(a)(3)–(a)(6) would also mean a reopening following a trading halt or pause.

Proposed Rule 123D(a)(3) would specify when the Exchange would open a security on a trade and would provide that the Exchange would open a security on a trade if there is buy and sell interest that can trade a round lot or more at a price that is no greater than or no less than a specified range (''Opening Price Range'') away from the last sale price on the Exchange (''Reference Price''). Proposed Rule 123D(a)(3) would further provide that the Exchange would determine the Opening Price Range parameters upon advance notice to market participants.

Unlike DMMs, who have the obligation to trade for their own account to supply liquidity as needed to facilitate openings,[5] the Exchange would not supply any liquidity when effecting an electronic open. Without the addition of liquidity to offset an imbalance, pricing the opening based on a significant imbalance could result in an opening price that may not be reasonably related to the last sale price on the Exchange. To avoid opening a security at a price too far away from the last sale, the Exchange proposes to establish numerical guidelines to provide parameters regarding the price a security may open when the Exchange opens such security on a trade. The Exchange proposes to establish the Opening Price Range parameters from time to time upon advance notice to market participants, which is similar to how other markets function.[6]

Proposed Rule 123D(a)(3)(A)–(C) would specify how orders would participate if the Exchange opens a security on a trade. Proposed Rule 123D(a)(3)(A) would provide that if all interest guaranteed to participate in an opening trade under Rule 115A(b) [7] could trade at a price consistent with the Opening Price Range, the opening trade would be at the price at which all such interest could trade. Proposed Rule 123D(a)(3)(B) would provide that if there are only Market Orders on both sides of the market, the opening price would be the Reference Price.

Because the Exchange would open a security within specified guidelines, not all interest that is intended for the open may participate in such an open. Proposed Rule 123D(a)(3)(C) would therefore provide that if interest that is otherwise guaranteed to participate in an opening trade under Rule 115A(b) would cause an opening price to be outside the Opening Price Range, such interest would not be guaranteed to participate in the opening trade. In that case, the Exchange proposes that the opening trade would be at the price at which the maximum volume of shares is tradable that is closest to the Reference Price and that orders would be allocated in the following priority, which is based on the priority of orders set forth in Rule 115A(b):

- Proposed Rule 123D(a)(3)(C)(i) would provide that Market and Market-on-Open (''MOO'') orders would trade first in time priority, provided that, during a Short Sale Period, sell short market orders and MOO orders would be adjusted to a Permitted Price [8] and would be considered limit orders for purposes of determining allocation priority.
- Proposed Rule 123D(a)(3)(C)(ii) would provide that Stop Orders that

[3] The proposed amendment contemplates that a DMM's inability to open securities either manually or electronically would be related to business continuity disruptions such as the physical closing of the Exchange Trading Floor or equipment and connectivity breakdowns that prevent the DMM from opening a security either manually or electronically. When a DMM is unable to open securities manually or electronically, the DMM's affirmative obligations under Rule 104 would not apply.

[4] The Exchange would also delete the terms ''Delayed'' and ''Halts in trading'' from the current Rule 123D(1) heading. The Exchange further proposes to add a new sub-paragraph (b) to Rule 123D, before the current second paragraph of Rule 123D(1), which would be named ''Delayed Openings/Halts in Trading.'' The Exchange proposes further non-substantive amendments to re-number current Rule 123D(2) as 123D(c) and Rule 123D(4) as Rule 123D(d). As discussed below, the Exchange proposes to delete current Rule 123D(3) and related Supplementary Material .24.

[5] *See* Rule 104(a)(2) & 104(f)(ii).

[6] *See, e.g.,* Nasdaq Stock Market LLC (''Nasdaq'') Rule 4752(b)[sic](2)(E) (Nasdaq management sets and modifies benchmarks and thresholds for the Nasdaq Opening Cross from time to time upon prior notice to market participants); NYSE Arca Equities, Inc. (''NYSE Arca Equities'') Rule 1.1(s)(A) (NYSE Arca Equities sets and modifiers price collar thresholds for the Market Order Auction from time to time upon prior notice to ETP Holders).

[7] Rule 115A(b) provides that when arranging an opening or reopening price, except as provided for in Rule 115A(b)(2) which concerns opening a security on a quote, market interest would be guaranteed to participate in the opening or reopening transaction and have precedence over limit interest that is priced equal to the opening or reopening price of a security and DMM interest. For purposes of the opening or reopening transaction, market interest includes (1) market and Market on Open (''MOO'') orders, (2) tick-sensitive market and MOO orders to buy (sell) that are priced higher (lower) than the opening or reopening price, (3) limit interest to buy (sell) that is priced higher (lower) than the opening or reopening price, and (iv) Floor broker interest entered manually by the DMM. *See* Rule 115A(b)(1)(A). For purposes of the opening or reopening transaction, limit interest would include (2) limited-priced interest, including-Quotes, Limit on Open (''LOO'') orders, and G orders; and (ii) tick-sensitive market and MOO orders that are priced equal to the opening or reopening price of a security. *See* Rule 115A(b)(1)(C). In addition, G orders that are priced equal to the opening or reopening price of a security would yield to all other limit interest priced equal to the opening or reopening price of a security except DMM interest.

[8] As set forth in Rule 440B, a short sale price test is activated if the price of a listed security declines by 10% or more from the previous day's last sale on the listing market and continues through the end of the following trading day (the ''Short Sale Period''). Pursuant to Rule 440B(e), Exchange systems will re-price short sale orders that are limited to the current national best bid (''NBB'') or lower and short sale market orders by one minimum price increment above the NBB (the ''Permitted Price''). The Permitted Price for securities for which the NBB is $1 or more is $.01 above the NBB; the Permitted Price for securities for which the NBB is below $1 is $.0001 above the NBB.

would be elected based on the opening price would trade second in time priority. As further proposed, during a Short Sale Period, sell short Stop Orders that are priced to a Permitted Price that would be lower than the opening price would trade after all other Stop Orders and before all other interest priced equal to or lower than the opening price.

• Proposed Rule 123D(a)(3)(C)(iii) would provide that Limit Orders (including Reserve Orders) to buy (sell) and e-Quotes (including Reserve e-Quotes) to buy (sell) priced higher (lower) than the opening price would trade third on parity by agent under Rule 72(c).[9]

• Proposed Rule 123D(a)(3)(C)(iv) would provide that G-quotes [10] to buy (sell) priced higher (lower) than the opening price will trade fourth on parity by agent under Rule 72(c).

• Finally, proposed Rule 123D(a)(3)(C)(v) would provide that all other limit interest that is priced equal to the opening price will trade last and be allocated consistent with Rule 115A(b)(1).

Proposed Rule 123D(a)(4) would describe when the Exchange would open a security electronically on a quote. First, proposed Rule 123D(a)(4)(A) would provide that if interest of less than a round lot pairs off at a price within the Opening Price Range, the Exchange would open on a quote. In this circumstance, after opening on a quote, interest of less than a round lot would trade at the price closest to the Reference Price (or at the Reference Price if the only interest is market orders), but would not be reported as an opening trade.

Proposed Rule 123D(a)(4)(B) would provide that the Exchange would open a security electronically on a quote if interest of any size pairs off at a price below (above) the lower (upper) boundary of the Opening Price Range, in which case, such paired-off interest would not trade.

Proposed Rule 123D(a)(4)(C) would provide that the Exchange would open a security electronically on a quote if there is no interest that can be quoted on either or both sides of the market. The proposed Rule would further specify that if an opening quote has a zero bid and/or a zero offer, it would not constitute an ''Opening Price'' as defined in Section I(I) of the Regulation NMS Plan to Address Extraordinary Market Volatility (the ''Plan'').[11] Accordingly, if the Exchange were to open on a quote with a zero bid and/or a zero offer, it would not calculate a midpoint of the quote for purposes of calculating Price Bands as provided for in Section V(B)(1) of the Plan.

Proposed Rule 123D(a)(5) would specify which information would be provided in advance of an opening or reopening. In order to provide transparency regarding the opening process, the Exchange proposes that during an opening effected by the Exchange, Order Imbalance Information pursuant to Rule 15(c) would be published.[12] However, because the Exchange would not open a security at a price outside of specified ranges, the Exchange would not issue pre-opening indications in a security pursuant to either Rule 15(a) or 123D.[13] The Exchange further proposes that it would publish pre-opening indications pursuant to Rule 123D(b) for a re-opening following a regulatory halt.

Proposed Rule 123D(a)(6) would describe under which circumstances the Exchange would cancel orders after opening on a trade or quote. A proposed in new Rule 123D(a)(6)(A), all unexecuted Market Orders, MOO Orders, and LOO Orders would be cancelled. This would be new behavior following an Exchange-facilitated open because under a DMM-facilitated open, all Market and MOO Orders are guaranteed to participate and therefore there would not be any unexecuted Market Orders or MOO Orders following an opening. Proposed Rule 123D(a)(6)(B) would provide that after an opening on a trade, buy (sell) Limit Orders priced higher (lower) than the opening price would be cancelled. Lastly, proposed Rule 123D(a)(6)(C) would provide that if interest would have paired off at a price below (above) the lower (upper) boundary of the Opening Price Range, after opening on a quote, sell (buy) Limit Orders would be cancelled. The Exchange proposes to cancel only the side of the orders that would cause an opening price to be outside of the Opening Price Range parameters; the other side would not be cancelled and would be included in the opening quote.

The Exchange also proposes to delete current Rule 123D(3) and related Supplementary Material .24. Rule 123D(3) sets forth a non-regulatory trading halt condition titled ''Investment Company Units or Index-Linked Securities Trading Condition'' adopted to facilitate the listing and trading of all index-linked securities and ETFs from the Exchange to its affiliate NYSE Arca, Inc. (''NYSE Arca'') by December 31, 2007.[14] The condition permits the Exchange to halt ETFs or index-linked securities after January 1, 2008 that remain listed on the NYSE.[15] All NYSE-listed index-linked securities and ETFs have transferred to NYSE Arca and are no longer traded on the Exchange, rendering Rule 123D(3) and Supplementary Material .24 moot.

Because of the technology changes associated with the proposed rule change, the Exchange proposes to announce the implementation date via Trader Update.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5) of the Act,[17] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and

[9] Rule 72(c) describes the allocation of executions on the Exchange and Rule 72(c)(ii) provides that for purposes of share allocation in an execution, each single Floor broker, the DMM and orders collectively represented in Exchange systems shall constitute individual participants. Rule 72(c)(iv) provides that executed volume shall be allocated to each participant on parity.

[10] Section 11(a)(1) of the Act, 15 U.S.C. 78k(a)(1), generally prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or any account over which it or an associated person exercises discretion. Subsection (G) of Section 11(a)(1) provides an exemption allowing an exchange member to have its own floor broker execute a proprietary transaction (''G order''). A G-Quote is an electronic method for Floor brokers to represent G orders. G orders on NYSE yield priority, parity and precedence based on size to all other non-G orders.

[11] *See* Securities Exchange Act Release No. 67091, 77 FR 33498 (June 6, 2012) (File No. 4–631).

[12] Order Imbalance Information reflects real-time order imbalances that accumulate prior to the opening transaction on the Exchange and the price at which interest eligible to participate in the opening transaction may be executed in full. Order Imbalance Information disseminated pursuant to Rule 15(c) includes all interest eligible for execution in the opening transaction of the security in Exchange systems, *i.e.,* electronic interest, including Floor broker electronic interest, entered into Exchange systems prior to the opening. Order Imbalance Information is disseminated on the Exchange's proprietary data feeds. *See* Rule 15(c)(1).

[13] *See* Proposed Rule 123D(a)(2) (F) [sic]. Rule 123D(1) requires the dissemination of one or more indications in connection with any delayed opening where a security has not opened or been quoted by 10 a.m. In addition, Rule 123D(1) provides that dissemination of one or more indication is mandatory for an opening which will result in a ''significant'' price change from the previous close. For securities priced under $10, such indications are mandatory if the price change is one dollar of more; for securities between $10 and $99.99, indications are required for price movements of the lesser of 10% or three dollars; and for securities over $100, indications are required for price movements of five dollars or more.

[14] *See* Securities Exchange Act Release No. 57035 (December 21, 2007), 72 FR 74386 (December 31, 2007) (SR–NYSE–2007–117).

[15] *See id.*

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

open market and a national market system, and protect investors and the public interest. The Exchange believes that permitting the Exchange to electronically open trading would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring an orderly open if the registered DMM cannot manually or electronically facilitate the open of trading as required under Rule 104(a). Similarly, the proposal promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market by providing customers and the investing public with the certainty of an open in circumstances where business continuity disruptions or other emergencies would prevent the assigned DMMs from opening a security. For the same reasons, the proposal is also designed to protect investors as well as the public interest.

The Exchange believes that the proposed amendment to Rule 123D(a)(3) to provide that openings effected by the Exchange would be within a proposed numerical guideline would remove impediments to and perfect the mechanism of a free and open market because, similar to how Nasdaq and NYSE Arca Equities function, it would enable the Exchange to set parameters for an opening to assure that the potential prices that a security may open would not be significantly away from the Reference Price. Similarly, the Exchange believes that excluding interest eligible for the open that would cause an execution to occur outside the Opening Price Range parameters, even if such interest would otherwise be required to be included in an open effected by a DMM, would remove impediments to and perfect the mechanism of a fair and orderly market because it would assure that the Exchange could effect the open within the proposed specified price ranges. The proposed rule therefore promotes just and equitable principles of trade because it provides transparency to entering firms of whether interest would be eligible to participate in a closing transaction effected by the Exchange.

Finally, deleting an obsolete halt condition in 123D(3) and related Supplementary Material .24 removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having obsolete references in the Exchange's rulebook. The Exchange further believes that the proposal removes impediments to and perfects the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public, can more easily navigate and understand the Exchange's rulebook. The Exchange believes that eliminating obsolete references would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete references will also further the goal of transparency and add clarity to the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather enable the Exchange to open trading where circumstances would prevent a DMM from facilitating an open.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[18] and Rule 19b–4(f)(6) thereunder.[19] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[20] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[22] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2015–49. 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

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] 15 U.S.C. 78s(b)(2)(B).

filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2015–49, and should be submitted on or before November 24, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27911 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Reinstatement: Rule 19h–1; SEC File No. 270–247; OMB Control No. 3235–0259.

Notice by a Self-Regulatory Organization of Proposed Admission to or Continuance in Membership or Participation or Association With a Member of Any Person Subject to a Statutory Disqualification, and Applications to the Commission for Relief Therefrom

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the proposed request for reinstatement, with change, of a previously approved collection for which approval has expired—Rule 19h–1, Notice by a Self-Regulatory Organization of Proposed Admission to or Continuance in Membership or Participation or Association With a Member of Any Person Subject to a Statutory Disqualification, and Applications to the Commission for Relief Therefrom (17 CFR 240.19h–1). The Commission plans to submit this request for reinstatement to the Office of Management and Budget (''OMB'') for approval.

Rule 19h–1 (''Rule'') under the Securities Exchange Act of 1934 (the ''Exchange Act'') prescribes the form and content of notices and applications by self-regulatory organizations (''SROs'') regarding proposed admissions to, or continuances in, membership, participation or association with a member of any person subject to a statutory disqualification.

The Commission uses the information provided in the submissions filed pursuant to Rule 19h–1 to review decisions of SROs to permit the entry into or continuance in the securities business of persons who have committed serious misconduct. The filings submitted pursuant to the Rule also permit inclusion of an application to the Commission for consent to associate with a member of an SRO notwithstanding a Commission order barring such association.

The Commission reviews filings made pursuant to the Rule to ascertain whether it is in the public interest to permit the employment in the securities business of persons subject to a statutory disqualification. The filings contain information that is essential to the staff's review and ultimate determination on whether an association or employment is in the public interest and consistent with investor protection. Without these filings, persons subject to a statutory disqualification could reenter or continue employment in the securities business without the Commission's critical review of their character, ability to act as a fiduciary, and their employer's plan of supervision. The failure to collect and review this information could result in significant harm to the investing public.

The Commission estimates the annual burden of responding to this collection of information is as follows.

BURDEN HOURS

	19h–1(a)—Notice of admission or continuance notwithstanding a statutory disqualification	19h–1(a)(4)—Notification of proposed admission or continuance pursuant to an exception from the notice requirements	19h–1(b)—Preliminary notifications	19h–1(d)—Application to the Commission for relief from certain statutory disqualifications
Estimated number of respondents =	20	20	20	20.
Estimated number of annual responses per respondent =.	11	9	28	5.
Estimated annual reporting burden per response =.	80	80	13	80.
Estimated total annual reporting burden =.	17,600 (20 respondents × 11 annual responses per respondent × 80 hours per respondent).	14,400 (20 respondents × 9 annual responses per respondent × 80 hours per respondent).	7,280 (20 respondents × 28 annual responses per respondent × 13 hours per respondent).	8,000 (20 respondents × 5 annual responses per respondent × 80 hours per respondent).

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

Persons submitting comments on the collection of information requirements should direct them to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.* Comments should reference SEC File

[23] 17 CFR 200.30–3(a)(12).

No. 270–247. Requests for materials submitted to OMB by the Commission with regard to this collection of information should be in writing, with reference to SEC File No. 270–247. Comments must be submitted to the SEC within 60 days of this notice.

Dated: October 28, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27906 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76156; File No. SR–BYX–2015–43]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 3.22, Concerning Gifts and Gratuities in Relation to the Business of the Employer of the Recipient, and Renaming the Rule ''Influencing or Rewarding Employees of Others''

October 15, 2015.

Correction

In notice document 2015–26577, appearing on pages 63624–63626 in the issue of Tuesday, October 20, 2015, make the following correction:

On page 63626, in the third column, in the twenty-eighth line from the top, ''October 23, 2015'' should read ''November 10, 2015''.

[FR Doc. C1–2015–26577 Filed 11–2–15; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76291; File No. SR–NYSEArca–2015–76]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the Global Currency Gold Fund Under NYSE Arca Equities Rule 8.201

October 28, 2015.

On August 28, 2015, NYSE Arca, Inc. (the ''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the Global Currency Gold Fund under NYSE Arca Equities Rule 8.201. The proposed rule change was published for comment in the **Federal Register** on September 16, 2015.[3] On September 29, 2015, the Exchange filed Amendment No. 1 to the proposed rule change.[4]

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates December 15, 2015, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEArca–2015–76).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27910 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Rule 17Ad–2(c), (d), and (h); SEC File No. 270–149, OMB Control No. 3235–0130.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17Ad–2(c), (d), and (h), (17 CFR 240.17Ad–2(c), (d), and (h)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17Ad–2(c), (d), and (h) enumerates the requirements with which registered transfer agents must comply to inform the Commission or the appropriate regulator of a transfer agent's failure to meet the minimum performance standards set by the Commission rule by filing a notice.

The Commission receives approximately 3 notices a year pursuant to Rule 17Ad–2(c), (d), and (h). The estimated annual time burden of these filings on respondents is minimal in view of: (a) The readily available nature of most of the information required to be included in the notice (since that information must be compiled and retained pursuant to other Commission rules); and (b) the summary fashion in which such information must be presented in the notice (most notices are one page or less in length). In light of the above, and based on the experience of the staff regarding the notices, the Commission staff estimates that, on average, most notices require approximately one-half hour to prepare. Thus, the Commission staff estimates that the industry-wide total time burden is approximately 1.5 hours.

Written comments are invited on: (a) 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; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75900 (September 11, 2015), 80 FR 55674 (SR–NYSEArca–2015–76).

[4] In Amendment No. 1, the Exchange: (1) identified weightings of each currency referenced in the Index; (2) supplemented its description of the method of calculation for the Spot Rate; (3) clarified when the Fund may suspend the right of redemption or postpone the redemption settlement date. Amendment No. 1 is available at: *http://www.sec.gov/rules/sro/nysearca/2015/34-75900-amendment1.pdf.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 28, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27903 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76289; File No. SR–NSCC–2015–008]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Provide Additional Details Regarding the Requirement that Members Participate in Annual Testing of Business Continuity and Disaster Recovery Plans

October 28, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 [2] thereunder, notice is hereby given that on October 23, 2015, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A) [3] of the Act and Rule 19b–4(f)(6) [4] thereunder. The proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a change to NSCC's Rule 2B of the Rules and Procedures (''Rules'') of NSCC to provide additional details regarding the requirement that Members participate in annual testing of NSCC's business continuity and disaster recovery plans (''BCP Testing''), as more fully described below.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would amend NSCC's Rule 2B (Ongoing Membership Requirements and Monitoring) to provide additional details regarding the requirement that NSCC Members participate in NSCC's annual BCP Testing. Currently, pursuant to Addendum B of the Rules, an applicant is qualified for membership with NSCC if it is ''able to satisfactorily communication with the Corporation and fulfill anticipated commitments to and meet the operational requirements of the Corporation with necessary promptness and accuracy and to conform to any condition and requirement that the Corporation reasonably deems necessary for its protection.'' [6] Once a firm becomes a Member of NSCC, NSCC Rule 2B provides that Members may be required to fulfill certain operational testing requirements that may be imposed by NSCC to test and monitor the continuing operational capability of the Members.[7]

Recently, the Commission promulgated Regulation Systems Compliance and Integrity (''Reg. SCI''), which requires NSCC to establish standards to designate members [8] and requires participation by such designated members in scheduled BCP Testing with NSCC on an annual basis.[9] Although NSCC already conducts annual BCP Testing with certain Members,[10] NSCC is proposing to amend Rule 2B to further describe NSCC's requirement with respect to BCP Testing.

The proposed amendments to Rule 2B would increase transparency regarding BCP Testing, and ensure NSCC's practice with respect to such testing is consistent with Reg. SCI by setting forth NSCC's rights to: (i) Designate Members required to participate in BCP Testing using established standards; (ii) determine the scope and reporting of such BCP Testing; and (iii) require Members to comply with such BCP Testing within specified timeframes. In connection with these proposed amendments, NSCC would refine the factors that it currently uses to designate Members for BCP Testing. For example, while NSCC would continue to rely on activity-based thresholds to mandate participation with annual BCP Testing, NSCC would also take into account additional factors when designating firms for BCP Testing, including, but not limited to: (i) Significant operational issues of the Member during the past twelve months; and (ii) past performance of the Member with respect to BCP Testing. Members would be informed of the specific standards that would be used by NSCC, along with any updates or changes to these standards, which would be applied on a prospective basis, through established methods of communication between NSCC and its Members. Likewise, Members would be notified in advance that they have been designated to participate in BCP Testing for the upcoming year, and would be provided details concerning the nature of such testing as the particular test plans are determined.

NSCC believes the proposed rule change would have no impact on NSCC Members relative to what Members are currently required to do. As described above, NSCC already requires certain Members to participate in BCP Testing on an annual basis. The proposed rule change would provide further clarity with respect to these requirements for consistency with Reg. SCI.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] Terms not otherwise defined herein have the meaning set forth in NSCC's Rules, *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[6] Addendum B, Section 1(C) of NSCC's Rules, *supra,* note 5.

[7] NSCC Rule 2B, Section 3, *supra,* note 5.

[8] 17 CFR 242.1004(a). In adopting Reg. SCI, the Commission determined not to require covered entities to notify the Commission of its designations or the standards that will be used in designating members, recognizing instead that each entity's standards, designations, and updates, if applicable, would be part of its records and, therefore, available to the Commission and its staff upon request. *See* Securities and Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) (File No. S7–01–13).

[9] 17 CFR 242.1004(a) and (b).

[10] NSCC Rule 2B, Section 3, *supra,* note 5.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act, requires, in part, that NSCC's Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to protect investors and the public interest.[11]

Rule 17Ad–22(d)(2), promulgated under the Act, requires NSCC to require that its Members have robust operational capacity to meet obligations arising from participation in the clearing agency, to monitory that its participation requirements are met on an ongoing basis, and to have participation requirements that are objective and publicly disclosed.[12] Rule 17Ad–22(d)(4), promulgated under the Act, requires NSCC to identify sources of operational risk and minimize them through the development of appropriate systems, controls, and procedures, and have business continuity plans that allow for timely recovery of operations and fulfillment of the clearing agency's obligations.[13]

Rule 1004(a) and (b) of Reg. SCI requires NSCC to establish standards for the designation of those Members that NSCC reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of its business continuity and disaster recovery plans, and to designate Members pursuant to those standards and require participation by such designated Members in scheduled BCP Testing annually.[14]

By facilitating the testing of how business continuity and disaster recovery plans function between NSCC and its Members during an emergency, the proposed rule change would facilitate the prompt and accurate clearance and settlement of securities transactions and protect investors and the public interest consistent with of the Act. The proposed rule change would provide additional details to NSCC's Rules regarding the requirement for Members to take part in its BCP Testing annually, strengthening its compliance with Rule 17Ad–22(d)(2) and (4).[15] Further, the proposed rule change would foster the objectives of the Commission under Reg. SCI by helping to ensure resilient and available markets.[16]

As such, NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act, Rule 17Ad–22(d)(2) and (d)(4), promulgated under the Act, and Rule 1004(a) and (b) of Reg. SCI, cited above.

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule change would impose any burden on competition because the proposed rule change would apply to all Members and only provides additional details regarding an existing requirement.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)[17] of the Act and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

NSCC has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to NSCC, the proposed rule change does not present any novel or controversial issues. Rather, NSCC is merely providing additional details regarding BCP Testing requirements or adding provisions that are consistent with or required by Reg. SCI. Accordingly, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow NSCC to incorporate changes required under Reg. SCI prior to the November 3, 2015 compliance date. Therefore, the Commission designates the proposed rule change to be operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2015–008 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–NSCC–2015–008. 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

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22(d)(2).

[13] 17 CFR 240.17Ad–22(d)(4).

[14] 17 CFR 242.1004(a) and (b).

[15] 17 CFR 240.17Ad–22(d)(2) and (4).

[16] 17 CFR 242.1004(a) and (b).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires NSCC to give the Commission written notice of NSCC'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 Commission deems this requirement to have been met.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 NSCC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–NSCC–2015–008 and should be submitted on or before November 24, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27912 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76292; File No. SR–NYSEMKT–2015–81]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 123D—Equities To Specify That Exchange Systems May Open One or More Securities Electronically if a Designated Market Maker Registered in a Security or Securities Cannot Facilitate the Opening of Trading as Required by Exchange Rules

October 28, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 23, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 123D—Equities to specify that Exchange systems may open one or more securities electronically if a Designated Market Maker registered in a security or securities cannot facilitate the opening of trading as required by Exchange rules. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 123D—Equities (''Rule 123D'') to specify that Exchange systems may open one or more securities electronically if a Designated Market Maker (''DMM'') registered in a security or securities cannot facilitate the open of trading as required by Exchange rules.[3]

Currently, Rule 123D provides that openings may be effected manually or electronically. However, the current rule contemplates that openings would be facilitated by a DMM, as provided for in Rule 104(a)(2)—Equities. The Exchange proposes to re-number Rule 123D to provide that current Rule 123D(1) would be re-numbered as Rule 123D(a), and the heading would be amended to be referred to as ''Openings.'' [4] Proposed Rule 123D(a)(1) would include the current first paragraph of Rule 123D(1).

The Exchange proposes to add a new paragraph (a)(2) to Rule 123D to provide that, if a DMM cannot facilitate the open of trading for one or more securities for which the DMM is registered, the Exchange would open those securities electronically on a quote or a trade as provided for in paragraphs (a)(3)—(a)(6) of the proposed Rule. Proposed Rule 123D(a)(2) would further provide that manually-entered Floor interest would not participate in any open effected electronically by the Exchange and if previously entered, would be ignored. Finally, proposed Rule 123D(a)(2) would provide that, unless otherwise specified, references to an open or opening in proposed Rules 123D (a)(3)—(a)(6) would also mean a reopening following a trading halt or pause.

Proposed Rule 123D(a)(3) would specify when the Exchange would open a security on a trade and would provide that the Exchange would open a security on a trade if there is buy and sell interest that can trade a round lot or more at a price that is no greater than or no less than a specified range (''Opening Price Range'') away from the last sale price on the Exchange (''Reference Price''). Proposed Rule 123D(a)(3) would further provide that the Exchange would determine the Opening Price Range parameters upon advance notice to market participants.

Unlike DMMs, who have the obligation to trade for their own account to supply liquidity as needed to facilitate openings,[5] the Exchange would not supply any liquidity when effecting an electronic open. Without the addition of liquidity to offset an imbalance, pricing the opening based on a significant imbalance could result in an opening price that may not be reasonably related to the last sale price on the Exchange. To avoid opening a security at a price too far away from the last sale, the Exchange proposes to establish numerical guidelines to provide parameters regarding the price a security may open when the Exchange opens such security on a trade. The Exchange proposes to establish the

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed amendment contemplates that a DMM's inability to open securities either manually or electronically would be related to business continuity disruptions such as the physical closing of the Exchange Trading Floor or equipment and connectivity breakdowns that prevent the DMM from opening a security either manually or electronically. When a DMM is unable to open securities manually or electronically, the DMM's affirmative obligations under Rule 104 would not apply.

[4] The Exchange would also delete the terms ''Delayed'' and ''Halts in trading'' from the current Rule 123D(1) heading. The Exchange further proposes to add a new sub-paragraph (b) to Rule 123D, before the current second paragraph of Rule 123D(1), which would be named ''Delayed Openings/Halts in Trading.'' The Exchange proposes further non-substantive amendments to re-number current Rule 123D(2) as 123D(c). As discussed below, the Exchange proposes to delete current Rule 123D(3) and (4).

[5] *See* Rule 104(a)(2)—Equities & 104(f)(ii)—Equities.

Opening Price Range parameters from time to time upon advance notice to market participants, which is similar to how other markets function.[6]

Proposed Rule 123D(a)(3)(A)—(C) would specify how orders would participate if the Exchange opens a security on a trade. Proposed Rule 123D(a)(3)(A) would provide that if all interest guaranteed to participate in an opening trade under Rule 115A(b)[7] could trade at a price consistent with the Opening Price Range, the opening trade would be at the price at which all such interest could trade. Proposed Rule 123D(a)(3)(B) would provide that if there are only Market Orders on both sides of the market, the opening price would be the Reference Price.

Because the Exchange would open a security within specified guidelines, not all interest that is intended for the open may participate in such an open. Proposed Rule 123D(a)(3)(C) would therefore provide that if interest that is otherwise guaranteed to participate in an opening trade under Rule 115A(b)—Equities would cause an opening price to be outside the Opening Price Range, such interest would not be guaranteed to participate in the opening trade. In that case, the Exchange proposes that the opening trade would be at the price at which the maximum volume of shares is tradable that is closest to the Reference Price and that orders would be allocated in the following priority, which is based on the priority of orders set forth in Rule 115A(b)—Equities:

- Proposed Rule 123D(a)(3)(C)(i) would provide that Market and Market-on-Open (''MOO'') orders would trade first in time priority, provided that, during a Short Sale Period, sell short market orders and MOO orders would be adjusted to a Permitted Price[8] and would be considered limit orders for purposes of determining allocation priority.
- Proposed Rule 123D(a)(3)(C)(ii) would provide that Stop Orders that would be elected based on the opening price would trade second in time priority. As further proposed, during a Short Sale Period, sell short Stop Orders that are priced to a Permitted Price that would be lower than the opening price would trade after all other Stop Orders and before all other interest priced equal to or lower than the opening price.
- Proposed Rule 123D(a)(3)(C)(iii) would provide that Limit Orders (including Reserve Orders) to buy (sell) and e-Quotes (including Reserve e-Quotes) to buy (sell) priced higher (lower) than the opening price would trade third on parity by agent under Rule 72(c)—Equities.[9]
- Proposed Rule 123D(a)(3)(C)(iv) would provide that G-quotes[10] to buy (sell) priced higher (lower) than the opening price will trade fourth on parity by agent under Rule 72(c)—Equities.
- Finally, proposed Rule 123D(a)(3)(C)(v) would provide that all other limit interest that is priced equal to the opening price will trade last and be allocated consistent with Rule 115A(b)(1)—Equities.

Proposed Rule 123D(a)(4) would describe when the Exchange would open a security electronically on a quote. First, proposed Rule 123D(a)(4)(A) would provide that if interest of less than a round lot pairs off at a price within the Opening Price Range, the Exchange would open on a quote. In this circumstance, after opening on a quote, interest of less than a round lot would trade at the price closest to the Reference Price (or at the Reference Price if the only interest is market orders), but would not be reported as an opening trade.

Proposed Rule 123D(a)(4)(B) would provide that the Exchange would open a security electronically on a quote if interest of any size pairs off at a price below (above) the lower (upper) boundary of the Opening Price Range, in which case, such paired-off interest would not trade.

Proposed Rule 123D(a)(4)(C) would provide that the Exchange would open a security electronically on a quote if there is no interest that can be quoted on either or both sides of the market. The proposed Rule would further specify that if an opening quote has a zero bid and/or a zero offer, it would not constitute an ''Opening Price'' as defined in Section I(I) of the Regulation NMS Plan to Address Extraordinary Market Volatility (the ''Plan'').[11] Accordingly, if the Exchange were to open on a quote with a zero bid and/or a zero offer, it would not calculate a midpoint of the quote for purposes of calculating Price Bands as provided for in Section V(B)(1) of the Plan.

Proposed Rule 123D(a)(5) would specify which information would be provided in advance of an opening or reopening. In order to provide transparency regarding the opening process, the Exchange proposes that during an opening effected by the Exchange, Order Imbalance Information pursuant to Rule 15(c)—Equities would be published.[12] However, because the

[6] *See, e.g.,* Nasdaq Stock Market LLC (''Nasdaq'') Rule 4752(b)[sic](2)(E) (Nasdaq management sets and modifies benchmarks and thresholds for the Nasdaq Opening Cross from time to time upon prior notice to market participants); NYSE Arca Equities, Inc. (''NYSE Arca Equities'') Rule 1.1(s)(A) (NYSE Arca Equities sets and modifiers price collar thresholds for the Market Order Auction from time to time upon prior notice to ETP Holders).

[7] Rule 115A(b)—Equities provides that when arranging an opening or reopening price, except as provided for in Rule 115A(b)(2)—Equities which concerns opening a security on a quote, market interest would be guaranteed to participate in the opening or reopening transaction and have precedence over limit interest that is priced equal to the opening or reopening price of a security and DMM interest. For purposes of the opening or reopening transaction, market interest includes (1) market and Market on Open (''MOO'') orders, (2) tick-sensitive market and MOO orders to buy (sell) that are priced higher (lower) than the opening or reopening price, (3) limit interest to buy (sell) that is priced higher (lower) than the opening or reopening price, and (iv) Floor broker interest entered manually by the DMM. *See* Rule 115A(b)(1)(A)—Equities. For purposes of the opening or reopening transaction, limit interest would include (2) limited-priced interest, including—Quotes, Limit on Open (''LOO'') orders, and G orders; and (ii) tick-sensitive market and MOO orders that are priced equal to the opening or reopening price of a security. *See* Rule 115A(b)(1)(C)—Equities. In addition, G orders that are priced equal to the opening or reopening price of a security would yield to all other limit interest priced equal to the opening or reopening price of a security except DMM interest.

[8] As set forth in Rule 440B—Equities, a short sale price test is activated if the price of a listed security declines by 10% or more from the previous day's last sale on the listing market and continues through the end of the following trading day (the ''Short Sale Period''). Pursuant to Rule 440B(e)—Equities, Exchange systems will re-price short sale orders that are limited to the current national best bid (''NBB'') or lower and short sale market orders by one minimum price increment above the NBB (the ''Permitted Price''). The Permitted Price for securities for which the NBB is $1 or more is $.01 above the NBB; the Permitted Price for securities for which the NBB is below $1 is $.0001 above the NBB.

[9] Rule 72(c)—Equities describes the allocation of executions on the Exchange and Rule 72(c)(ii)—Equities provides that for purposes of share allocation in an execution, each single Floor broker, the DMM and orders collectively represented in Exchange systems shall constitute individual participants. Rule 72(c)(iv)—Equities provides that executed volume shall be allocated to each participant on parity.

[10] Section 11(a)(1) of the Act, 15 U.S.C. 78k(a)(1), generally prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or any account over which it or an associated person exercises discretion. Subsection (G) of Section 11(a)(1) provides an exemption allowing an exchange member to have its own floor broker execute a proprietary transaction (''G order''). A G-Quote is an electronic method for Floor brokers to represent G orders. G orders on NYSE yield priority, parity and precedence based on size to all other non-G orders.

[11] *See* Securities Exchange Act Release No. 67091, 77 FR 33498 (June 6, 2012) (File No. 4–631).

[12] Order Imbalance Information reflects real-time order imbalances that accumulate prior to the opening transaction on the Exchange and the price at which interest eligible to participate in the opening transaction may be executed in full. Order Imbalance Information disseminated pursuant to Rule 15(c)—Equities includes all interest eligible for execution in the opening transaction of the security in Exchange systems, *i.e.,* electronic interest, including Floor broker electronic interest, entered into Exchange systems prior to the opening. Order Imbalance Information is disseminated on the

Continued

Exchange would not open a security at a price outside of specified ranges, the Exchange would not issue pre-opening indications in a security pursuant to either Rule 15(a)—Equities or 123D.[13] The Exchange further proposes that it would publish pre-opening indications pursuant to Rule 123D(b) for a re-opening following a regulatory halt.

Proposed Rule 123D(a)(6) would describe under which circumstances the Exchange would cancel orders after opening on a trade or quote. A proposed in new Rule 123D(a)(6)(A), all unexecuted Market Orders, MOO Orders, and LOO Orders would be cancelled. This would be new behavior following an Exchange-facilitated open because under a DMM-facilitated open, all Market and MOO Orders are guaranteed to participate and therefore there would not be any unexecuted Market Orders or MOO Orders following an opening. Proposed Rule 123D(a)(6)(B) would provide that after an opening on a trade, buy (sell) Limit Orders priced higher (lower) than the opening price would be cancelled. Lastly, proposed Rule 123D(a)(6)(C) would provide that if interest would have paired off at a price below (above) the lower (upper) boundary of the Opening Price Range, after opening on a quote, sell (buy) Limit Orders would be cancelled. The Exchange proposes to cancel only the side of the orders that would cause an opening price to be outside of the Opening Price Range parameters; the other side would not be cancelled and would be included in the opening quote.

The Exchange also proposes to delete current Rule 123D(4), which sets forth a non-regulatory trading halt condition designated ''Structured Products.'' Rule 123D(4) was adopted to permit the halting of trading of exchange traded funds (''ETFs'') and structured products on the Exchange to facilitate the closing of the Exchange's former trading floor in connection with the acquisition of the Exchange by NYSE Euronext in 2008. Orders in ETFs and structured products subject to the trading halt condition are routed from the Exchange to its affiliate NYSE Arca, Inc. (''NYSE Arca'').[14] The condition permits the Exchange to halt ETFs or structured products that remain listed on the Exchange.[15] All Exchange-listed ETFs and structured products have transferred to NYSE Arca and are no longer traded on the Exchange, rendering Rule 123D(4) moot.[16]

Because of the technology changes associated with the proposed rule change, the Exchange proposes to announce the implementation date via Trader Update.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Section 6(b)(5) of the Act,[18] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The Exchange believes that permitting the Exchange to electronically open trading would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring an orderly open if the registered DMM cannot manually or electronically facilitate the open of trading as required under Rule 104(a). Similarly, the proposal promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market by providing customers and the investing public with the certainty of an open in circumstances where business continuity disruptions or other emergencies would prevent the assigned DMMs from opening a security. For the same reasons, the proposal is also designed to protect investors as well as the public interest.

The Exchange believes that the proposed amendment to Rule 123D(a)(3) to provide that openings effected by the Exchange would be within a proposed numerical guideline would remove impediments to and perfect the mechanism of a free and open market because, similar to how Nasdaq and NYSE Arca Equities function, it would enable the Exchange to set parameters for an opening to assure that the potential prices that a security may open would not be significantly away from the Reference Price. Similarly, the Exchange believes that excluding interest eligible for the open that would cause an execution to occur outside the Opening Price Range parameters, even if such interest would otherwise be required to be included in an open effected by a DMM, would remove impediments to and perfect the mechanism of a fair and orderly market because it would assure that the Exchange could effect the open within the proposed specified price ranges. The proposed rule therefore promotes just and equitable principles of trade because it provides transparency to entering firms of whether interest would be eligible to participate in a closing transaction effected by the Exchange.

Finally, deleting an obsolete halt condition in Rule 123D(4) removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having obsolete references in the Exchange's rulebook. The Exchange further believes that the proposal removes impediments to and perfects the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public, can more easily navigate and understand the Exchange's rulebook. The Exchange believes that eliminating obsolete references would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete references will also further the goal of transparency and add clarity to the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather enable the Exchange to open trading where circumstances would prevent a DMM from facilitating an open.

Exchange's proprietary data feeds. *See* Rule 15(c)(1)—Equities.

[13] *See* Proposed Rule 123D(a)(2) (F) [sic]. Rule 123D(1) requires the dissemination of one or more indications in connection with any delayed opening where a security has not opened or been quoted by 10 a.m. In addition, Rule 123D(1) provides that dissemination of one or more indication is mandatory for an opening which will result in a ''significant'' price change from the previous close. For securities priced under $10, such indications are mandatory if the price change is one dollar of more; for securities between $10 and $99.99, indications are required for price movements of the lesser of 10% or three dollars; and for securities over $100, indications are required for price movements of five dollars or more.

[14] *See* Securities Exchange Act Release No. 58824 (October 21, 2008), 73 FR 63754 (October 27, 2008) (SR–NYSEALTR–2008–02). *See also* Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR–Amex–2008–63).

[15] *See id.*

[16] The Exchange also proposes to amend current Rule 123D(2) to replace single quotation marks with double quotation marks around the term ''Equipment Changeover'' and to delete current Rule 123D(3), which is marked ''Reserved.''

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [19] and Rule 19b–4(f)(6) thereunder.[20] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [21] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[22] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [23] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV.Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2015–81 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2015–81. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should referto File Number SR–NYSEMKT–2015–81, and should be submitted on or before November 24, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27909 Filed 11–2–15; 8:45 am]

BILLING CODE 8011–01–P

[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] 15 U.S.C. 78s(b)(2)(B).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Order of Suspension of Trading; In the Matter of American Power Corp. and Locan, Inc.

October 30, 2015.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Power Corp. (CIK No. 1436174), a revoked Nevada corporation with its principal place of business listed as Denver, Colorado, with stock quoted on OTC Link (previously, ''Pink Sheets'') operated by OTC Markets Group, Inc. (''OTC Link'') under the ticker symbol AMPW, because it has not filed any periodic reports since the period ended December 31, 2012. On October 22, 2014, the Division of Corporation Finance sent American Power a delinquency letter requesting compliance with their periodic filing obligations, but the letter was returned because of American Power's failure to maintain a valid address on file with the Commission, as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Locan, Inc. (CIK No. 1431837), a delinquent Delaware corporation with its principal place of business listed as Bartlesville, Oklahoma, with stock quoted on OTC Link under the ticker symbol LOCN, because it has not filed any periodic reports since the period ended December 31, 2012. On October 27, 2014, Locan received a delinquency letter sent by the Division of Corporation Finance requesting compliance with their periodic filing obligations.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on October 30, 2015, through 11:59 p.m. EST on November 12, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–28065 Filed 10–30–15; 4:15 pm]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 9339]

Meeting on United States-Korea Free Trade Agreement Environment Chapter Implementation and Environmental Cooperation Commission Meeting Under the United States-Korea Environmental Cooperation Agreement

ACTION: Notice of the second meetings of the Environmental Affairs Council established pursuant to the United States-Korea Free Trade Agreement and of the Environmental Cooperation Commission established under the United States-Korea Environmental Cooperation Agreement, and request for comments.

SUMMARY: The U.S. Department of State and the Office of the United States Trade Representative (USTR) are providing notice that the United States and the Republic of Korea (Korea) intend to hold the second meetings of the Environmental Cooperation Commission (ECC) and of the Environmental Affairs Council (EAC) in Seoul, Korea on November 10 and 11, 2015, respectively.

During the ECC meeting, the United States and Korea (collectively the Parties) will review the results of environmental cooperation under the 2013–2015 Work Program. The Parties also expect to approve a new 2016–2018 Work Program. During the EAC meeting, the Parties will discuss their respective implementation of and progress under the Environment Chapter (Chapter 20) of the United States-Korea Free Trade Agreement (FTA). All interested persons are invited to attend a public session on November 11, 2015 following the ECC and EAC meetings where they will have the opportunity to ask questions and discuss U.S.-Korean environmental cooperation and implementation of Chapter 20 with Commission and Council Members. For further information, please contact Tiffany Prather or Seth Patch (contact information below).

The Department of State and USTR invite interested organizations and members of the public to submit written comments or suggestions regarding implementation of Chapter 20, the Work Programs, the meeting agendas, or any issues that should be discussed at the meetings. In preparing comments or suggestions, submitters are encouraged to refer to: (1) The United States-Korea Environmental Cooperation Agreement (ECA); (2) the United States-Korea Environmental Cooperation Commission 2013–2015 Work Program; (3) the Environment Chapter of the United States-Korea FTA; and (4) the Final Environmental Review United States-Korea Free Trade Agreement. These documents are available at *www.state.gov/e/oes/eqt/trade/c49687.htm.*

DATES: The ECC and EAC meetings will be held on November 10 and 11, 2015, respectively, in Seoul, Korea at the Korea Press Center. Written comments and suggestions should be submitted no later than November 6, 2015 to facilitate consideration.

ADDRESSES: Written comments and suggestions should be submitted to both: (1) Tiffany Prather, Office of Environmental Quality and Transboundary Issues, U.S. Department of State, by electronic mail to *PratherTA@state.gov* with the subject line ''U.S.-Korea EAC/ECC Meetings''; and

(2) Seth Patch, Office of Environment and Natural Resources, Office of the United States Trade Representative, by electronic mail to *Seth_L_Patch@ustr.eop.gov* with the subject line ''U.S-Korea EAC/ECC Meetings.''

If you have access to the Internet you can view and comment on this notice by going to: *http://www.regulations.gov/#!home* and searching on its Public Notice number: 9339.

FOR FURTHER INFORMATION CONTACT: Tiffany Prather, telephone (202) 647–4548.

SUPPLEMENTARY INFORMATION: Article 20.6.1 of the United States-Korea FTA establishes an EAC, which oversees implementation of Chapter 20 (Environment). The United States and Korea established the ECC when they signed the ECA, negotiated in concert with the FTA, on January 23, 2012. In Articles 3 and 4 of the ECA, the Parties state that they plan to meet to develop and update, as appropriate, a Work Program for Environmental Cooperation. The Work Program will identify and outline environmental cooperation priorities, on-going efforts, and possibilities for future cooperation.

Please refer to the Department of State Web site at *www.state.gov/e/oes/eqt/trade/c49687.htm* and the USTR Web site at *www.ustr.gov* for more information.

Dated: October 28, 2015.

Deborah Klepp,

Director, Office of Environmental Quality and Transboundary Issues, Department of State.

[FR Doc. 2015–28034 Filed 11–2–15; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID: OCC–2015–0024]

Mutual Savings Association Advisory Committee

AGENCY: Department of the Treasury, Office of the Comptroller of the Currency.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Office of the Comptroller of the Currency (OCC) announces a meeting of the Mutual Savings Association Advisory Committee (MSAAC).

DATES: A public meeting of the MSAAC will be held on Wednesday, November 18, 2015, beginning at 8:30 a.m. Eastern Standard Time (EST). Members of the public may submit written statements to the MSAAC. The OCC must receive written statements no later than Thursday, November 12, 2015. Members of the public who plan to attend the meeting, and members of the public who may require auxiliary aids, should contact the OCC by 5 p.m. EST on Thursday, November 12, 2015, to inform the OCC of their interest in attending the meeting and to provide the information that will be required to facilitate aid.

ADDRESSES: The OCC will hold the November 18, 2015 meeting of the MSAAC at the OCC's offices at 400 7th Street SW., Washington, DC 20219. Members of the public may submit written statements to *MSAAC@occ.treas.gov* or by mailing them to Michael R. Brickman, Designated Federal Officer, Mutual Savings Association Advisory Committee, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: Michael R. Brickman, Deputy Comptroller for Thrift Supervision, (202) 649–5420, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: By this notice, the OCC is announcing that the MSAAC will convene a meeting on Wednesday, November 18, 2015, at the OCC's offices at 400 7th Street SW., Washington, DC 20219. The meeting is open to the public and will begin at 8:30 a.m. EST. The purpose of the meeting is for the MSAAC to advise the OCC on regulatory changes or other steps the OCC may be able to take to ensure the continued health and viability of mutual savings associations and other issues of

concern to existing mutual savings associations. The agenda includes a discussion of current topics of interest to the industry.

Members of the public who plan to attend the meeting should contact the OCC by 5 p.m. EST on Thursday, November 12, 2015, to inform the OCC of their desire to attend the meeting and to provide information that will be required to facilitate entry into the meeting. Members of the public may contact the OCC via email at *MSAAC@OCC.treas.gov* or by telephone at (202) 649–5420. Attendees should provide their full name, email address, and organization, if any. For security reasons, attendees will be subject to security screening procedures and must present a valid government-issued identification to enter the building. Members of the public who are deaf or hard of hearing should call (202) 649–5597 (TTY) by 5 p.m. EST Thursday, November 12, 2015, to arrange auxiliary aids such as sign language interpretation for this meeting.

Dated: October 28, 2015.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2015–27989 Filed 11–2–15; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Rural Health Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Veterans' Rural Health Advisory Committee will meet on November 17–18, 2015, at 333 John Carlyle Street, Room 2001, Alexandria, Virginia from 8:30 a.m. to 5 p.m. on both days. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on health care issues affecting enrolled Veterans residing in rural areas. The Committee examines programs and policies that impact the provision of VA health care to enrolled Veterans residing in rural areas, and discusses ways to improve and enhance VA services for these Veterans.

The agenda will include updates from the Committee Chair and the Director of the Veterans Health Administration (VHA) Office of Rural Health (ORH), as well as presentations on general health care access and quality topics.

Public comments will be received at 4:30 p.m. on November 18, 2015. Individuals may submit a 1–2 page summary of their comments for inclusion in the official meeting record. Interested parties should contact Mr. Elmer D. Clark, by mail at 810 Vermont Avenue, Mail Code 10P1R, Washington, DC 20420, or by email at *VRHAC@va.gov,* or by fax (202) 632–8609.

Dated: October 29, 2015.

Rebecca Schiller,

Advisory Committee Management Officer.

[FR Doc. 2015–27940 Filed 11–2–15; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Special Medical Advisory Group will meet on November 24, 2015, in the Freedom Auditorium (on the fourth floor) at the Veterans Affairs Medical Center, 50 Irving Street NW., Washington DC 20422 from 9:00 a.m. to 3:30 p.m. ET. The meeting is open to the public.

The purpose of the Group is to advise the Secretary of Veterans Affairs and the Under Secretary for Health on the care and treatment of Veterans, and other matters pertinent to the Department's Veterans Health Administration (VHA).

On November 24, 2015, from 7:30 a.m. to 9:00 a.m. the Group will convene a closed door session in order to protect patient privacy as the Group tours the Washington, DC VA Medical Center 5 U.S.C. 552b(b)(6). At 9:00 a.m. the group will reconvene in an open session to review and discuss key points from the *Independent Assessment of Health Care Delivery Systems and Management Processes of the Department of Veterans Affairs,* which was submitted to Congress and published in the **Federal Register** in September 2015 and also discuss the *Future State of VA Community Care.* No time will be allocated for receiving oral presentations from the public. However, members of the public may submit written statements for review by the Committee to Barbara Hyduke, Department of Veterans Affairs, Office of Patient Care Services (10P4), Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, or by email at *Barbara.hyduke@va.gov.*

Because the meeting is being held in a VA Medical Center, a photo I.D. may be requested at the entrance as a part of the clearance process. Therefore, you should plan to arrive 15 minutes before the meeting begins to allow time for this. Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Hyduke at (202) 461–7800 or by email.

Dated: October 29, 2015.

Rebecca Schiller,

Federal Advisory Committee Management Officer.

[FR Doc. 2015–27942 Filed 11–2–15; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Clinical Science Research and Development Service Cooperative Studies Scientific Evaluation Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Clinical Science Research and Development Service Cooperative Studies Scientific Evaluation Committee will hold a meeting on December 16, 2015, at the American Association of Airport Executives, 601 Madison Street, Alexandria, VA. The meeting will begin at 8:30 a.m. and end at 4:00 p.m.

The Committee advises the Chief Research and Development Officer through the Director of the Clinical Science Research and Development Service on the relevance and feasibility of proposed projects and the scientific validity and propriety of technical details, including protection of human subjects.

The session will be open to the public for approximately 30 minutes at the start of the meeting for the discussion of administrative matters and the general status of the program. The remaining portion of the meeting will be closed to the public for the Committee's review, discussion, and evaluation of research and development applications.

During the closed portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research proposals and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. As provided by section 10(d) of Public Law 92–463, as amended, closing portions of this meeting is in accordance with 5 U.S.C. 552b(c)(6) and (c)(9)(B).

The committee will not accept oral comments from the public for the open portion of the meeting. Those who plan

to attend or wish additional information should contact Dr. Grant Huang, Acting Director, Cooperative Studies Program (10P9CS), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 443–5700 or by email at *grant.huang@va.gov.* Those wishing to submit written comments may send them to Dr. Huang at the same address and email.

Dated: October 29, 2015.

Rebecca Schiller,

Committee Management Officer.

[FR Doc. 2015–27941 Filed 11–2–15; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 80 Tuesday,
No. 212 November 3, 2015

Part II

Environmental Protection Agency

40 CFR Part 423
Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 423

[EPA–HQ–OW–2009–0819; FRL–9930–48–OW]

RIN 2040–AF14

Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule, promulgated under the Clean Water Act (CWA), protects public health and the environment from toxic metals and other harmful pollutants, including nutrients, by strengthening the technology-based effluent limitations guidelines and standards (ELGs) for the steam electric power generating industry. Steam electric power plants contribute the greatest amount of all toxic pollutants discharged to surface waters by industrial categories regulated under the CWA. The pollutants discharged by this industry can cause severe health and environmental problems in the form of cancer and non-cancer risks in humans, lowered IQ among children, and deformities and reproductive harm in fish and wildlife. Many of these pollutants, once in the environment, remain there for years. Due to their close proximity to these discharges and relatively high consumption of fish, some minority and low-income communities have greater exposure to, and are therefore at greater risk from, pollutants in steam electric power plant discharges. The final rule establishes the first nationally applicable limits on the amount of toxic metals and other harmful pollutants that steam electric power plants are allowed to discharge in several of their largest sources of wastewater. On an annual basis, the rule reduces the amount of toxic metals, nutrients, and other pollutants that steam electric power plants are allowed to discharge by 1.4 billion pounds; it reduces water withdrawal by 57 billion gallons; and, it has social costs of $480 million and monetized benefits of $451 to $566 million.

DATES: The final rule is effective on January 4, 2016. In accordance with 40 CFR part 23, this regulation shall be considered issued for purposes of judicial review at 1 p.m. Eastern time on November 17, 2015. Under section 509(b)(1) of the CWA, judicial review of this regulation can be had only by filing a petition for review in the U.S. Court of Appeals within 120 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2), the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. A detailed record index, organized by subject, is available on EPA's Web site at *http://www2.epa.gov/eg/steam-electric-power-generating-effluent-guidelines-2015-final-rule.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Water Docket in the EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Ronald Jordan, Engineering and Analysis Division, Telephone: 202–566–1003; Email: *jordan.ronald@epa.gov.* For economic information, contact James Covington, Engineering and Analysis Division, Telephone: 202–566–1034; Email: *covington.james@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of This Preamble

Table of Contents

I. Regulated Entities and Supporting Documentation

A. Regulated Entities

Entities potentially regulated by this action include:

Category	Example of regulated entity	North American Industry Classification System (NAICS) Code
Industry	Electric Power Generation Facilities—Electric Power Generation	22111
	Electric Power Generation Facilities—Fossil Fuel Electric Power Generation	221112
	Electric Power Generation Facilities—Nuclear Electric Power Generation	221113

This section is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely regulated by this action. Other types of entities that do not meet the above criteria could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria listed in 40 CFR 423.10 and the definitions in 40 CFR 423.11 of the rule. If you still have questions regarding the applicability of this action to a particular entity, consult the person listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Supporting Documentation

This rule is supported, in part, by the following documents:

- Technical Development Document for the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category (TDD), Document No. EPA–821–R–15–007.
- Environmental Assessment for the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category (EA), Document No. EPA–821–R–15–006.
- Benefits and Cost Analysis for the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category (BCA), Document No. EPA–821–R–15–005.
- Regulatory Impact Analysis for the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category (RIA), Document No. EPA–821–R–15–004.

These documents are available in the public record for this rule and on EPA's Web site at *http://www2.epa.gov/eg/steam-electric-power-generating-effluent-guidelines-2015-final-rule.*

II. Legal Authority for This Action

EPA promulgates this rule under the authority of sections 301, 304, 306, 307, 308, 402, and 501 of the CWA, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361.

III. Executive Summary

A. Purpose of the Rule

Steam electric power plants [1] discharge large wastewater volumes, containing vast quantities of pollutants, into waters of the United States. The pollutants include both toxic and bioaccumulative pollutants such as arsenic, mercury, selenium, chromium, and cadmium. Today, these discharges account for about 30 percent of all toxic pollutants discharged into surface

[1] The steam electric power plants covered by the ELGs use nuclear or fossil fuels, such as coal, oil, or natural gas, to heat water in boilers, which generate steam. This rule does not apply to plants that use non-fossil fuel or non-nuclear fuel or other energy sources, such as biomass or solar thermal energy. The steam is used to drive turbines connected to electric generators. The plants generate wastewater composed of chemical pollutants and thermal pollution (heated water) from their wastewater treatment, power cycle, ash handling and air pollution control systems, as well as from coal piles, yard and floor drainage, and other plant processes.

waters by all industrial categories regulated under the CWA.[2] The electric power industry has made great strides to reduce air pollutant emissions under Clean Air Act programs. Yet many of these pollutants are transferred to the wastewater as plants employ technologies to reduce air pollution. The pollutants in steam electric power plant wastewater discharges present a serious public health concern and cause severe ecological damage, as demonstrated by numerous documented impacts, scientific modeling, and other studies. When toxic metals such as mercury, arsenic, lead, and selenium accumulate in fish or contaminate drinking water, they can cause adverse effects in people who consume the fish or water. These effects can include cancer, cardiovascular disease, neurological disorders, kidney and liver damage, and lowered IQs in children.

There are, however, affordable technologies that are widely available, and already in place at some plants, which are capable of reducing or eliminating steam electric power plant discharges. In the several decades since the steam electric ELGs were last revised, such technologies have increasingly been used at plants. This final rule is the first to ensure that plants in the steam electric industry employ technologies designed to reduce discharges of toxic metals and other harmful pollutants discharged in the plants' largest sources of wastewater.

Steam electric power plant discharges occur in proximity to nearly 100 public drinking water intakes and more than 1,500 public wells across the nation, and recent studies indicate that steam electric power plant discharges can adversely affect surface waters used as drinking water supplies. One study found that arsenic in ash and flue gas desulfurization (FGD) wastewater discharges from four steam electric power plants exceeded Safe Drinking Water Act (SDWA) Maximum Contaminant Levels (MCLS) in the waterbodies into which they discharged, indicating that these contaminants are present in surface waters, and at levels above standards used to protect drinking water. See DCN SE01984. A second, more recent study found increased levels of bromide in rivers used as drinking water after FGD systems were installed at upstream steam electric power plants. The study showed an increase in bromides at four drinking water utilities' intakes after wastewater from these FGD systems began to be discharged to the rivers, whereas prior to the FGD wastewater discharges, bromides were not a problem in the intake waters of the utilities. With bromides present in their drinking water source waters at increased levels, carcinogenic disinfection by-products (brominated DBPs, in particular trihalomethanes (THMs)) began forming, and at one drinking water utility, violations of the THM MCL began occurring. See DCN SE04503.

Nitrogen discharged by steam electric power plants can also impact drinking water sources by contributing to harmful algal blooms in reservoirs and lakes that are used as drinking water sources. Ground water contamination from surface impoundments (ash ponds) containing steam electric power plant wastewater also threatens drinking water, as evidenced by more than 30 documented cases. See EA Section 3.3.

Steam electric power plant discharges also adversely affect the quality of fish that people eat. Water quality modeling shows that about half of waterbodies that receive steam electric power plant discharges exhibit health risks to people consuming fish from those waters (primarily from mercury). Nearly half of waterbodies that receive steam electric power plant discharges exhibit pollutant levels for one or more steam electric power plant pollutants in excess of human health water quality criteria (WQC).[3] See EA Section 4. People who eat large amounts of fish from lakes and rivers contaminated by mercury, lead, and arsenic are particularly at risk, and consumption of such fish poses additional risk to the fetuses of pregnant women. Compared to the general public, minority and low-income communities have greater exposure to, and are therefore at greater risk from, pollutants in steam electric power plant discharges, due to their closer proximity to the discharges and greater consumption of fish from contaminated waters. See Section XVII.J.

Steam electric power plant discharges adversely affect our nation's waters and their ecology. Pollutants in such discharges, particularly mercury and selenium, bioaccumulate in fish and wildlife, and they accumulate in the sediments of lakes and reservoirs, remaining there for decades. Documented adverse impacts include the near eradication of an entire fish population in the late 1970s in Belews Lake, North Carolina, due to selenium discharges from a steam electric power plant (DCN SE01842); a series of fish kills in the 1970s in Martin Lake, Texas, also due to selenium discharges from a steam electric power plant (elevated selenium levels and deformities persisted for at least eight years after the plant ceased discharging) (DCN SE01861); reproductive impairment and deformities in fish and birds from selenium discharges (DCN SE04519); and other forms of impacts to surface waters, as documented by numerous other damage cases associated with discharges from surface impoundments containing steam electric power plant wastewater. See EA Section 3.3.

Waterbodies receiving steam electric power plant discharges have routinely exhibited pollutant levels routinely in excess of state WQC for pollutants found in the plant discharges. This includes pollutants such as selenium, arsenic, and cadmium. Nutrients in steam electric power plant discharges can cause over-enrichment of receiving waters, resulting in water quality problems, such as low oxygen levels and loss of critical submerged aquatic vegetation, further impairing beneficial uses such as fishing. EPA's modeling corroborates such documented impacts, revealing that nearly one fifth of waterbodies receiving steam electric power plant discharges exceed WQC for protection of aquatic life and nearly one third of such receiving waters pose potential reproductive risks to birds that prey on fish.

The steam electric ELGs that EPA promulgated and revised in 1974, 1977, and 1982 are out of date. They do not adequately control the pollutants (toxic metals and other) discharged by this industry, nor do they reflect relevant process and technology advances that have occurred in the last 30-plus years. The rise of new processes for generating electric power (*e.g.* coal gasification) and the widespread implementation of air pollution controls (*e.g.,* FGD and flue gas mercury control (FGMC)) have altered existing wastestreams and created new types of wastewater at many steam electric power plants, particularly coal-fired plants. The processes employed and pollutants discharged by the industry look very different today than they did in 1982. Many plants, nonetheless, still treat their wastewater using only surface impoundments, which are largely ineffective at controlling discharges of toxic pollutants and nutrients. This final rule addresses an outstanding public health and environmental problem by

[2] Although the way electricity is generated in this country is changing, EPA projects that, without this final rule, steam electric power plant discharges would likely continue to account, over the foreseeable future, for about thirty percent of all toxic pollutants discharged into surface waters by all industrial categories regulated under the CWA.

[3] WQCs are established by states to protect beneficial uses of waterbodies, such as the support of aquatic life and provision of fishing and swimming.

revising the steam electric ELGs, as they apply to a subset of power plants that discharge wastestreams containing toxic and other pollutants. As the CWA requires, this rule is economically achievable (affordable for the industry as a whole) and is based on available technologies. On an annual basis, the rule is projected to reduce the amount of toxic metals, nutrients, and other pollutants that steam electric power plants are allowed to discharge by 1.4 billion pounds; reduce water withdrawal by 57 billion gallons; and, it has estimated social costs of $480 million. Finally, of the benefits that were able to be monetized, EPA projects $451 to $566 million in benefits associated with this rule.

B. Summary of Final Rule

To further its ultimate objective to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters,'' the CWA authorizes EPA to establish national technology-based effluent limitations guidelines and new source performance standards for discharges from categories of point sources that occur directly into waters of the U.S. The CWA also authorizes EPA to promulgate nationally applicable pretreatment standards that control pollutant discharges from existing and new sources that discharge wastewater indirectly to waters of the U.S. through sewers flowing to publicly owned treatment works (POTWs). EPA establishes ELGs based on the performance of well-designed and well-operated control and treatment technologies.

EPA completed a study of the steam electric category in 2009 and proposed the ELG rule in June 2013. The public comment period extended for more than three months. This final rule reflects the statutory factors outlined in the CWA, as well as EPA's full consideration of the comments received and updated analytical results.

Existing Sources—Direct Discharges. For existing sources that discharge directly to surface water, with the exception of oil-fired generating units and small generating units (those with a nameplate capacity of 50 megawatts (MW) or less), the final rule establishes effluent limitations based on Best Available Technology Economically Achievable (BAT). BAT is based on technological availability, economic achievability, and other statutory factors and is intended to reflect the highest performance in the industry (see Section IV.B.3). The final rule establishes BAT limitations as follows: [4]

- For fly ash transport water, bottom ash transport water, and FGMC wastewater, there are two sets of BAT limitations. The first set of BAT limitations is a numeric effluent limitation on Total Suspended Solids (TSS) in the discharge of these wastewaters (these limitations are equal to the TSS limitations in the previously established Best Practicable Control Technology Currently Available (BPT) regulations). The second set of BAT limitations is a zero discharge limitation for all pollutants in these wastewaters.[5]
- For FGD wastewater, there are two sets of BAT limitations. The first set of limitations is a numeric effluent limitation on TSS in the discharge of FGD wastewater (these limitations are equal to the TSS limitations in the previously established BPT regulations). The second set of BAT limitations is numeric effluent limitations on mercury, arsenic, selenium, and nitrate/nitrite as N in the discharge of FGD wastewater.[6]
- For gasification wastewater, there are two sets of BAT limitations. The first set of limitations is a numeric effluent limitation on TSS in the discharge of gasification wastewater (this limitation is equal to the TSS limitation in the previously established BPT regulations). The second set of BAT limitations is numeric effluent limitations on mercury, arsenic, selenium, and total dissolved solids (TDS) in the discharge of gasification wastewater.
- A numeric effluent limitation on TSS in the discharge of combustion residual leachate from landfills and surface impoundments. This limitation is equal to the TSS limitation in the previously established BPT regulations.

For oil-fired generating units and small generating units (50 MW or smaller), the final rule establishes BAT limitations on TSS in the discharge of fly ash transport water, bottom ash transport water, FGMC wastewater, FGD wastewater, and gasification wastewater. These limitations are equal to the TSS limitations in the existing BPT regulations.

New Sources—Direct Discharges. The CWA mandates that new source performance standards (NSPS) reflect the greatest degree of effluent reduction that is achievable, including, where practicable, a standard permitting no discharge of pollutants (see Section IV.B.4). NSPS represent the most stringent controls attainable, taking into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements. For direct discharges to surface waters from new sources, including discharges from oil-fired generating units and small generating units, the final rule establishes NSPS as follows:

- A zero discharge standard for all pollutants in fly ash transport water, bottom ash transport water, and FGMC wastewater.
- Numeric standards on mercury, arsenic, selenium, and TDS in the discharge of FGD wastewater.
- Numeric standards on mercury and arsenic in the discharge of combustion residual leachate.

Existing Sources—Discharges to POTWs. Pretreatment Standards for Existing Sources (PSES) are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. PSES are analogous to BAT effluent limitations for direct dischargers and are generally based on the same factors (see Section IV.B.5). The final rule establishes PSES as follows: [7]

- A zero discharge standard for all pollutants in fly ash transport water, bottom ash transport water, and FGMC wastewater.[8]
- Numeric standards on mercury, arsenic, selenium, and nitrate/nitrite as N in the discharge of FGD wastewater.
- Numeric standards on mercury, arsenic, selenium and TDS in the discharge of gasification wastewater.

New Sources—Discharges to POTWs. Pretreatment standards for new sources (PSNS) are also designed to prevent the discharge of any pollutant into a POTW that interferes with, passes through, or is otherwise incompatible with the POTW. PSNS are analogous to NSPS for direct dischargers, and EPA generally considers the same factors for both sets of standards (see Section IV.B.6). The final rule establishes PSNS that are the same as the rule's NSPS.

[4] For details on when the following BAT limitations apply, see Section VIII.C.

[5] When fly ash transport water or bottom ash transport water is used in the FGD scrubber, the applicable limitations are those established for FGD wastewater on mercury, arsenic, selenium and nitrate/nitrite as N.

[6] For plants that opt into the voluntary incentives program, the second set of BAT limitations is numeric effluent limitations on mercury, arsenic, selenium, and TDS in the discharge of FGD wastewater.

[7] For details on when PSES apply, see Section VIII.E.

[8] When fly ash transport water or bottom ash transport water is used in the FGD scrubber, the applicable standards are those established for FGD wastewater on mercury, arsenic, selenium and nitrate/nitrite as N.

C. Summary of Costs and Benefits

Table III–1 summarizes the benefits and social costs for the final rule, at three percent and seven percent discount rates. EPA's analysis reflects the Agency's understanding of the actions steam electric power plants will take to meet the limitations and standards in the final rule. EPA based its analysis on a baseline that reflects the expected impacts of other environmental regulations affecting steam electric power plants, such as the Clean Power Plan (CPP) rule that the Agency finalized in July 2015 (as well as other relevant rules such as the Coal Combustion Residuals (CCR) rule that the Agency promulgated in April 2015). EPA understands that these modeled results have uncertainty due to the possibility of unexpected implementation approaches and thus that the actual costs could be somewhat higher or lower than estimated. The current estimate reflects the best data and analysis available at this time. In this preamble, EPA presents costs and monetized benefits accounting for these other rules.[9] Under this final rule, EPA estimates that about 12 percent of steam electric power plants and 28 percent of coal-fired or petroleum coke-fired power plants will incur some costs.[10] For additional information, see Sections V and IX.

TABLE III–1—TOTAL MONETIZED ANNUALIZED BENEFITS AND COSTS OF THE FINAL RULE

[Millions; 2013$]

Discount rate	Total monetized social benefits		Total social costs	
	3%	7%	3%	7%
Final Rule	$451 to $566	$387 to $478	$480	$471

The remainder of this preamble is structured as follows. Section IV provides additional background on the CWA and the ELG program. Section V outlines key updates since the proposal, including updates to the industry profile, estimated costs and economic impacts, and pollutant data. Section VI gives an overview of the industry, and Section VII reviews the identification and selection of the regulated pollutants. Section VIII describes the final rule requirements, along with the bases for EPA's decisions. Section IX presents the costs and economic impacts, while Section X shows the accompanying pollutant reductions. Section XI presents the numeric limitations and standards for existing and new sources that are established in this final rule. Sections XII through XIV explain the non-water quality environmental impacts (including energy requirements), the environmental assessment, and the resulting benefits analysis. Section XV presents results of the cost-effectiveness analysis, and Section XVI provides information regarding implementation of the rule.

IV. Background

A. Clean Water Act

Congress passed the CWA to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' 33 U.S.C. 1251(a). In order to achieve this objective, the Act has, as a national goal, the elimination of the discharge of all pollutants into the nation's waters. 33 U.S.C. 1251(a)(1). The CWA establishes a comprehensive program for protecting our nation's waters. Among its core provisions, the CWA prohibits the discharge of pollutants from a point source to waters of the U.S., except as authorized under the CWA. Under section 402 of the CWA, 33 U.S.C. 1342, discharges may be authorized through a National Pollutant Discharge Elimination System (NPDES) permit. The CWA establishes a dual approach for these permits, technology-based controls that establish a floor of performance for all dischargers, and water quality-based effluent limitations, where the technology-based effluent limitations are insufficient to meet applicable WQS. To serve as the basis for the technology-based controls, the CWA authorizes EPA to establish national technology-based effluent limitations guidelines and new source performance standards for discharges from categories of point sources (such as industrial, commercial, and public sources) that occur directly into waters of the U.S.

The CWA also authorizes EPA to promulgate nationally applicable pretreatment standards that control pollutant discharges from sources that discharge wastewater indirectly to waters of the U.S., through sewers flowing to POTWs, as outlined in sections 307(b) and (c) of the CWA, 33 U.S.C. 1317(b) and (c). EPA establishes national pretreatment standards for those pollutants in wastewater from indirect dischargers that pass through, interfere with, or are otherwise incompatible with POTW operations. Generally, pretreatment standards are designed to ensure that wastewaters from direct and indirect industrial dischargers are subject to similar levels of treatment. See CWA section 301(b), 33 U.S.C. 1311(b). In addition, POTWs are required to implement local treatment limits applicable to their industrial indirect dischargers to satisfy any local requirements. See 40 CFR 403.5.

Direct dischargers (those discharging directly to surface waters) must comply with effluent limitations in NPDES permits. Indirect dischargers, who discharge through POTWs, must comply with pretreatment standards. Technology-based effluent limitations and standards in NPDES permits are derived from effluent limitations guidelines (CWA sections 301 and 304, 33 U.S.C. 1311 and 1314) and new source performance standards (CWA section 306, 33 U.S.C. 1316) promulgated by EPA, or based on best professional judgment (BPJ) where EPA has not promulgated an applicable effluent limitation guideline or new source performance standard (CWA section 402(a)(1)(B), 33 U.S.C. 1342(a)(1)(B)). Additional limitations are also required in the permit where necessary to meet WQS. CWA section 301(b)(1)(C), 33 U.S.C. 1311(b)(1)(C). The ELGs are established by EPA regulation for categories of industrial dischargers and are based on the degree of control that can be achieved using various levels of pollution control technology, as specified in the Act (*e.g.,* BPT, BCT, BAT; see below).

EPA promulgates national ELGs for major industrial categories for three classes of pollutants: (1) Conventional pollutants (TSS, oil and grease, biochemical oxygen demand (BOD_5), fecal coliform, and pH), as outlined in

[10] EPA estimates that the population of steam electric power plants is about 1080.

CWA section 304(a)(4) and 40 CFR 401.16; (2) toxic pollutants (*e.g.,* toxic metals such as arsenic, mercury, selenium, and chromium; toxic organic pollutants such as benzene, benzo-a-pyrene, phenol, and naphthalene), as outlined in CWA section 307(a), 33 U.S.C. 1317(a); 40 CFR 401.15 and 40 CFR part 423, appendix A; and (3) nonconventional pollutants, which are those pollutants that are not categorized as conventional or toxic (*e.g.,* ammonia-N, phosphorus, and TDS).

B. Effluent Guidelines Program

EPA establishes ELGs based on the performance of well-designed and well-operated control and treatment technologies. The legislative history of CWA section 304(b), which is the heart of the effluent guidelines program, describes the need to press toward higher levels of control through research and development of new processes, modifications, replacement of obsolete plants and processes, and other improvements in technology, taking into account the cost of controls. Congress has also stated that EPA need not consider water quality impacts on individual water bodies as the guidelines are developed; see Statement of Senator Muskie (principal author) (October 4, 1972), reprinted in Legislative History of the Water Pollution Control Act Amendments of 1972, at 170. (U.S. Senate, Committee on Public Works, Serial No. 93–1, January 1973).

There are four types of standards applicable to direct dischargers, and two types of standards applicable to indirect dischargers, described in detail below.

1. Best Practicable Control Technology Currently Available

Traditionally, EPA establishes effluent limitations based on BPT by reference to the average of the best performances of facilities within the industry, grouped to reflect various ages, sizes, processes, or other common characteristics. EPA can promulgate BPT effluent limitations for conventional, toxic, and nonconventional pollutants. In specifying BPT, EPA looks at a number of factors. EPA first considers the cost of achieving effluent reductions in relation to the effluent reduction benefits. The Agency also considers the age of equipment and facilities, the processes employed, engineering aspects of the control technologies, any required process changes, non-water quality environmental impacts (including energy requirements), and such other factors as the Administrator deems appropriate. See CWA section 304(b)(1)(B), 33 U.S.C. 1314(b)(1)(B). If, however, existing performance is uniformly inadequate, EPA may establish limitations based on higher levels of control than what is currently in place in an industrial category, when based on an Agency determination that the technology is available in another category or subcategory and can be practically applied.

2. Best Conventional Pollutant Control Technology

The 1977 amendments to the CWA require EPA to identify additional levels of effluent reduction for conventional pollutants associated with Best Conventional Pollutant Control Technology (BCT) for discharges from existing industrial point sources. In addition to other factors specified in section 304(b)(4)(B), 33 U.S.C. 1314(b)(4)(B), the CWA requires that EPA establish BCT limitations after consideration of a two-part ''cost reasonableness'' test. EPA explained its methodology for the development of BCT limitations on July 9, 1986 (51 FR 24974). Section 304(a)(4) designates the following as conventional pollutants: BOD_5, TSS, fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as a conventional pollutant on July 30, 1979 (44 FR 44501; 40 CFR 401.16).

3. Best Available Technology Economically Achievable

BAT represents the second level of stringency for controlling direct discharges of toxic and nonconventional pollutants. As the statutory phrase intends, EPA considers the technological availability and the economic achievability in determining what level of control represents BAT. CWA section 301(b)(2)(A), 33 U.S.C. 1311(b)(2)(A). Other statutory factors that EPA considers in assessing BAT are the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the process employed, potential process changes, non-water quality environmental impacts (including energy requirements), and such other factors as the Administrator deems appropriate. The Agency retains considerable discretion in assigning the weight to be accorded these factors. *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1045 (D.C. Cir. 1978). Generally, EPA determines economic achievability based on the effect of the cost of compliance with BAT limitations on overall industry and subcategory (if applicable) financial conditions. BAT is intended to reflect the highest performance in the industry, and it may reflect a higher level of performance than is currently being achieved based on technology transferred from a different subcategory or category, bench scale or pilot studies, or foreign plants. *Am. Paper Inst.* v. *Train,* 543 F.2d 328, 353 (D.C. Cir. 1976); *Am. Frozen Food Inst.* v. *Train,* 539 F.2d 107, 132 (D.C. Cir. 1976). BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice. *See Am. Frozen Food Inst.,* 539 F.2d at 132, 140; *Reynolds Metals Co.* v. *EPA,* 760 F.2d 549, 562 (4th Cir. 1985); *Cal. & Hawaiian Sugar Co.* v. *EPA,* 553 F.2d 280, 285–88 (2nd Cir. 1977).

4. Best Available Demonstrated Control Technology/New Source Performance Standards

NSPS reflect ''the greatest degree of effluent reduction'' that is achievable based on the ''best available demonstrated control technology'' (BADCT), ''including, where practicable, a standard permitting no discharge of pollutants.'' CWA section 306(a)(1), 33 U.S.C. 1316(a)(1). Owners of new facilities have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS generally represent the most stringent controls attainable through the application of BADCT for all pollutants (that is, conventional, nonconventional, and toxic pollutants). In establishing NSPS, EPA is directed to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements. CWA section 306(b)(1)(B), 33 U.S.C. 1316(b)(1)(B).

5. Pretreatment Standards for Existing Sources

Section 307(b) of the CWA, 33 U.S.C. 1317(b), authorizes EPA to promulgate pretreatment standards for discharges of pollutants to POTWs. PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. Categorical pretreatment standards are technology-based and are analogous to BPT and BAT effluent limitations guidelines, and thus the Agency typically considers the same factors in promulgating PSES as it considers in promulgating BAT. Congress intended for the combination of pretreatment and treatment by the POTW to achieve the level of treatment that would be required if the industrial source were making a direct discharge. Conf. Rep. No. 95–830, at 87 (1977), reprinted in U.S. Congress. Senate Committee on Public Works (1978), A

Legislative History of the CWA of 1977, Serial No. 95–14 at 271 (1978). The General Pretreatment Regulations, which set forth the framework for the implementation of categorical pretreatment standards, are found at 40 CFR part 403. These regulations establish pretreatment standards that apply to all non-domestic dischargers. *See* 52 FR 1586 (January 14, 1987).

6. Pretreatment Standards for New Sources

Section 307(c) of the CWA, 33 U.S.C. 1317(c), authorizes EPA to promulgate PSNS at the same time it promulgates NSPS. As is the case for PSES, PSNS are designed to prevent the discharge of any pollutant into a POTW that interferes with, passes through, or is otherwise incompatible with the POTW. In selecting the PSNS technology basis, the Agency generally considers the same factors it considers in establishing NSPS, along with the results of a pass-through analysis. Like new sources of direct discharges, new sources of indirect discharges have the opportunity to incorporate into their operations the best available demonstrated technologies. As a result, EPA typically promulgates pretreatment standards for new sources based on best available demonstrated control technology for new sources. *See Nat'l Ass'n of Metal Finishers* v. *EPA,* 719 F.2d 624, 634 (3rd Cir. 1983).

C. Steam Electric Effluent Guidelines Rulemaking History

EPA provided a detailed history of the steam electric ELGs in the preamble for the proposed rule, including an explanation of why EPA initiated a steam electric ELG rulemaking following a detailed study in 2009. EPA published the proposed rule on June 7, 2013, and took public comments until September 20, 2013. 78 FR 34432. During the public comment period, EPA received over 200,000 comments. EPA also held a public hearing on July 9, 2013.

V. Key Updates Since Proposal

This section discusses key updates since EPA proposed its rule in June 2013, including how these updates are reflected in the final rule.

A. Industry Profile Changes Due to Retirements and Conversions

For the final rule, EPA adjusted the population of steam electric power plants that will likely incur costs and the associated benefits as a result of this final rule based on company announcements, as of August 2014, regarding changes in plant operations. The steam electric industry is a dynamic one, influenced by many factors, including electricity demand, fuel prices, availability of resources, and regulation. Since proposal, there have been some important changes in the overall industry profile. Some companies have retired or announced plans to retire specific steam electric generating units, as well as converted or announced plans to convert specific units to a different fuel source. See DCN SE05069 for information on the data sources for these announced retirements and conversions. In addition to actual or announced retirements and fuel conversions, in some cases, plants have altered, or announced plans to alter, their wastewater treatment or ash handling practices. To the extent possible, EPA adjusted its analyses of costs, pollutant loadings, non-water quality environmental impacts, and benefits for the final rule to account for these actual and anticipated changes. The final rule accounts for plant retirements and fuel conversions, as well as changes in plants' ash handling and wastewater treatment practices, expected to occur by the implementation dates in the final rule. For more details, see TDD Section 4.5 or ''Changes to Industry Profile for Steam Electric Generating Units for the Steam Electric Effluent Guidelines Final Rule,'' DCN SE05059.

B. EPA Consideration of Other Federal Rules

EPA made every effort to appropriately account for other rules in its many analyses for this rule. Since proposal, EPA has promulgated other rules affecting the steam electric industry: the Cooling Water Intake Structures (CWIS) rule for existing facilities (79 FR 48300; Aug. 15, 2014), the CCR rule (80 FR 21302; Apr. 17, 2015), the CPP rule (see *http://www2.epa.gov/cleanpowerplan/clean-power-plan-existing-power-plants*), and the Carbon Pollution Standard for New Power Plants (CPS) rule (see *http://www2.epa.gov/cleanpowerplan/carbon-pollution-standards-new-modified-and-reconstructed-power-plants*). One result of taking into account these rules is a change in the population of units and plants that EPA estimates would incur incremental costs, as well as additional estimated benefits, under this final rule. In some cases, EPA performed two sets of parallel analyses to demonstrate how the other rules affected this final rule. For example, EPA conducted an assessment of compliance costs and pollutant loadings for this rule both with and without accounting for the CCR rule (this preamble only presents results accounting for the CCR rule). Then, using results from the analyses of costs and loadings accounting for the CCR rule, EPA also conducted an additional set of analyses of compliance costs and pollutant loadings accounting for the proposed CPP rule (this preamble only presents results accounting for the proposed CPP rule). At the time EPA conducted its analyses, the CPP had not yet been finalized, and thus EPA used the proposed CPP for its analyses. EPA concluded that the proposed and final CPP specifications are similar enough that using the proposed rather than the final CPP will not bias the results of the analysis for this rule. See Section IX for additional information. Because EPA used the proposal as a proxy for the final rule, the rest of the preamble simply refers to the CPP rule. Given that final CPP state plans have not yet been determined, EPA recognizes that the modeled results have uncertainty due to the possibility of unexpected implementation approaches and that actual market responses may be somewhat more or less pronounced than estimated. The current estimate reflects the best data and analysis available at this time. For more information on these federal rules, see TDD Section 1.3.3. For more information on how EPA accounted for the effect of these rules on its compliance cost, pollutant loadings estimates, and non-water quality environmental impacts, see TDD Sections 9, 10, and 12. See Section V.D. and Section IX, below, and the RIA regarding how EPA considered other federal rules in its economic impact analysis.

C. Advancements in Technologies

There have been advancements in several technologies since proposal that reinforce EPA's decision regarding those technologies that serve as the appropriate basis for the final rule. For proposal, EPA evaluated a variety of technologies available to control and treat wastewater generated by the steam electric industry. The final rule is based on several treatment technologies discussed in depth at proposal. As explained then, and further discussed in Section VIII, the record demonstrates that the technologies that form the basis for the final rule are available. Moreover, the record indicates that, based on the emerging market for treatment technologies, plants will have many options to choose from when deciding how to meet the requirements of the final rule.

The biological treatment technology that serves as part of the basis for the final requirements for FGD wastewater

discharged from existing sources has been tested at power plants for more than ten years and demonstrated in full-scale systems for more than seven years. As this technology has matured, new vendors have emerged to provide expertise in applying it to steam electric power plants. In addition, other advanced technologies that plants may use to achieve the effluent limitations and standards for FGD wastewater in the final rule are now entering the marketplace, such as lower-cost biological treatment systems that utilize a modular-based bioreactor, which is prefabricated and can be delivered directly to the site. Another advancement related to evaporation and crystallization technology, operating at low temperatures to crystallize dissolved solids, requires no chemical treatment of the wastewater and generates no additional sludge for disposal, resulting in a simpler and more economical application for treatment of both FGD wastewater and gasification wastewater. Another development concerning the evaporation system (which is the basis for the BAT limitations for FGD wastewater in the voluntary incentives program, as well as the basis for the NSPS for FGD wastewater) is a process that generates a pozzolanic material instead of crystallized salts as a solid waste product of the treatment system; although the pozzolanic material is expected to require landfill disposal since it likely would not be a marketable material, the capital and operating cost of the overall evaporation treatment process would be reduced.

Zero valent iron (ZVI) cementation, sorption media, ion exchange, and electrocoagulation are also examples of emerging treatment technologies that are being developed to treat FGD wastewater, and they could be used to achieve the limitations in the final rule. See TDD Section 7 for a more detailed discussion.

The technologies used as the basis for the final requirements for ash transport water (dry handling and closed-loop systems) have been in operation at power plants for more than 20 years and are amply demonstrated by the record supporting the final rule. Recent advancements related to bottom ash handling technologies have focused on providing more flexible retrofit solutions and improving the thermal efficiency of the boiler operation. These advancements result in additional savings related to electricity use, operation and maintenance, water costs, and thermal energy recovery.

In sum, the record demonstrates that there have been significant advancements in relevant treatment technologies since proposal, and EPA expects that the advancements will continue as this rule is implemented by the industry.

D. Engineering Costs

For the final rule, EPA updated its cost estimates to account for public comments. The following list summarizes the main adjustments EPA made to its cost estimates for the final rule:

- Adjustment of population of generating units and changes in wastewater treatment or ash handling practices to account for company-announced generating unit retirements/repowerings and conversions of ash handling systems (see Section IV.A);
- Adjustment of population of generating units and changes in wastewater treatment or ash handling practices to account for implementation of the CCR rule and CPP rule (see Section IV.B);
- Adjustments to the direct capital costs factors to better reflect all associated installation costs;
- Adjustments to the indirect capital cost factors to account for appropriate engineering and contingency costs;
- Adjustment to plant population receiving one-time bottom ash management costs;
- Addition of costs for denitrification pretreatment prior to biological treatment of FGD wastewater (for certain plants);
- Updates to costing inputs to account for costs of additional redundancy for the fly ash dry handling system;
- Addition of tank rental costs for surge capacity during certain bottom ash handling system maintenance;
- Addition of building costs for certain bottom ash and FGD wastewater systems; and
- Addition of costs for equipment that can be used to mitigate high oxidation-reduction potential (ORP) levels in FGD wastewater.

See Section 9 of the TDD for additional information on the plant-specific compliance cost estimates for the final rule.

E. Economic Impact Analysis

For its analysis of the economic impact of the final rule, EPA began with the same financial data sources for steam electric power plants and their parent companies that were used and described in the proposed rule, primarily collected through the *Questionnaire for the Steam Electric Power Generating Effluent Guidelines* (industry survey) [11] and public sources. Since proposal, EPA updated some of the analysis input data obtained from public sources to reflect the most current information about the economic/financial conditions in, and the regulatory environment of, the electric power industry, as well as data on electricity prices and electricity consumption. Thus, EPA updated its analysis to use the most current publicly available data from the following sources: The Department of Energy's Energy Information Administration (EIA) (in particular, the EIA 860, 861, and 906/920/923 databases),[12] the U.S. Small Business Administration (SBA), the Bureau of Labor Statistics (BLS), and the Bureau of Economic Analysis (BEA). As was the case for the proposed rule, EPA performed an analysis using the Integrated Planning Model (IPM), a comprehensive electricity market optimization model that can evaluate impacts within the context of regional and national electricity markets. For the final rule, EPA used an updated IPM base case (v5.13) that incorporates improvements and data updates to the previous version (v.4.10), notably regarding electricity demand forecast, generating capacity, market conditions, and newly promulgated environmental regulations also affecting this industry (see Section IX).

F. Pollutant Data

For the final rule, EPA incorporated data submitted by public commenters in its effluent limitations and standards development, pollutants of concern identification, and pollutant loadings estimates. Such data include:

- Industry-submitted data representing the FGD purge, FGD chemical precipitation effluent, and FGD biological treatment effluent for the plants identified as operating BAT systems;
- Industry-submitted ash transport water characterization and source water data; [13]

[11] For details on the industry survey, see TDD Section 3 and 78 FR 34432; June 7, 2013).

[12] EIA–860: Annual Electric Generator Report; EIA–861: Annual Electric Power Industry Database; EIA–923: Utility, Non-Utility, and Combined Heat & Power Plant Database (monthly). The most current EIA data at the time of the analysis was for the year 2012.

[13] Industry also submitted bottom ash transport water data approximately 14 months after the close of the public comment period. EPA did not incorporate these late data into its analyses, but it did perform a sensitivity analysis to determine how these late data might have impacted EPA's analyses and decisions. EPA concluded from the sensitivity analysis that the late bottom ash transport water data would not have changed EPA's ultimate decisions for this final rule. See DCN SE05581.

- Industry-submitted ash impoundment effluent concentrations; and
- Industry-submitted pilot-test data related to treatment of FGD wastewater.

EPA subjected the new data to its data quality acceptance criteria and, as appropriate, updated its analyses accordingly. See TDD Section 3 for additional information on the data sources used in the development of the final rule.

G. Environmental Assessment Models

Although not required to do so, EPA conducted an Environmental Assessment for the final rule, as it did for the proposed rule. EPA updated the environmental assessment in several ways to respond to public comments, and improve the characterization of the environmental and human health improvements associated with the final rule. EPA performed dynamic water quality modeling of selected case-study locations to supplement the results of the national-scale Immediate Receiving Water (IRW) model. EPA supplemented the wildlife analysis by developing and using an ecological risk model that predicts the risk of reproductive impacts among fish and birds with dietary exposure to selenium from steam electric power plant wastewater discharges. EPA also updated and improved several input parameters for the IRW model, including fish consumption rates for recreational and subsistence fishers, the bioconcentration factor for copper, and benchmarks for assessing the potential for impacts to benthic communities in receiving waters. See Section XIII.A for additional discussion.

VI. Industry Description

A. General Description of Industry

EPA provided a general description of the steam electric industry in the proposed rule and provides a complete discussion of the industry in TDD Section 4. As described in TDD Section 4.5 (and Section V.A, above), EPA considered retirements, fuel conversions, ash handling conversions, wastewater treatment updates, and other industry profile changes in the development of the final rule and supporting technical analyses; however, the data presented in the general industry description represents 2009 conditions, as the industry survey (See TDD Section 3) remains the best available source of information for characterizing operations across the industry.

B. Steam Electric Process Wastewater and Control Technologies

While almost all steam electric power plants generate certain wastewater, like cooling water and boiler blowdown, the presence of other wastestreams depends on the type of fuel burned. Coal- and petroleum coke-fired generating units, and to a lesser degree oil-fired generating units, generate a flue gas stream that contains large quantities of particulate matter, sulfur dioxide, and nitrogen oxides, which would be emitted to the atmosphere if they were not cleaned from the flue gas prior to emission. Therefore, many of these generating units are outfitted with air pollution control systems (*e.g.,* particulate removal systems, FGD systems, nitrogen oxide (NO_X)-removal systems, and mercury control systems). Gas-fired generating units generate fewer emissions of particulate matter, sulfur dioxide, and nitrogen oxides than coal- or oil-fired generating units, and therefore do not typically operate air pollution control systems to control emissions from their flue gas. In addition, coal-, oil-, and petroleum coke-fired generating units create fly and/or bottom ash as a result of coal combustion. The wastewaters associated with ash transport and air pollution control systems contain large quantities of metals (*e.g.,* arsenic, mercury, and selenium).

See TDD Sections 4, 6, and 7 for details on these systems, the wastewaters they generate, the number of facilities that operate the systems and generate wastewater, and the control technologies used for wastewater treatment prior to discharge.

1. FGD Wastewater

FGD systems are used to remove sulfur dioxide from the flue gas so that it is not emitted into the air. Dry FGD systems spray a sorbent slurry into a reactor vessel so that the droplets dry as they contact the hot flue gas. Although dry FGD scrubbers use water in their operation, the water in most systems evaporates and they generally do not discharge wastewater. Wet FGD systems contact the sorbent slurry with flue gas in a reactor vessel producing a wastewater stream.

Treatment technologies for FGD wastewater include chemical precipitation, biological treatment, and evaporation. At some plants, this wastewater is handled in surface impoundments, constructed wetlands, or through practices achieving zero discharge. As described above in Section V.C and TDD section 7, EPA identified other technologies that have been evaluated or are being developed to treat FGD wastewater, including iron cementation, ZVI cementation, reverse osmosis, absorption or adsorption media, ion exchange, and electrocoagulation.

2. Fly Ash Transport Water

Plants use particulate removal systems to collect fly ash and other particulates from the flue gas in hoppers located underneath the equipment. Of the coal-, petroleum coke-, and oil-fired steam electric power plants that generate fly ash, most of them transport fly ash pneumatically from the hoppers to temporary storage silos, thereby not generating any transport water. Some plants, however, use water to transport (sluice) the fly ash from the hoppers to a surface impoundment. The water used to transport the fly ash to the surface impoundment is usually discharged to surface water as overflow from the impoundment after the fly ash has settled to the bottom.

3. Bottom Ash Transport Water

Bottom ash consists of heavier ash particles that are not entrained in the flue gas and fall to the bottom of the furnace. In most furnaces, the hot bottom ash is quenched in a water-filled hopper. For purposes of this rule, boiler slag is considered bottom ash. Boiler slag is the molten bottom ash collected at the base of the furnace that is quenched with water. Most plants use water to transport (sluice) the bottom ash from the hopper to an impoundment or dewatering bins. The ash sent to a dewatering bin is separated from the transport water and then disposed. For both of these systems, the water used to transport the bottom ash to the impoundment or dewatering bins is usually discharged to surface water as overflow from the systems, after the bottom ash has settled to the bottom.

Of the coal-, petroleum coke-, and oil-fired steam electric power plants that generate bottom ash, most operate wet sluicing handling systems. There are two types of bottom ash handling technologies that can meet zero discharge requirements: (1) Dry handling technologies that do not use any water, including systems such as dry vacuum or pressure systems, dry mechanical conveyor systems, and vibratory belt systems; and (2) wet systems that do not generate or discharge ash transport water, including mechanical drag systems (MDS), remote MDS, and complete-recycle systems.

4. FGMC Wastewater

FGMC systems remove mercury from the flue gas, so that it is not emitted into

the air. There are two types of systems used to control flue gas mercury emissions: (1) Addition of oxidizing agents to the coal prior to combustion; and (2) injection of activated carbon into the flue gas after combustion. Addition of oxidizing agents to the coal prior to combustion does not generate a new wastewater stream; it can, however, increase the mercury concentration in the FGD wastewater because the oxidized mercury is more easily removed by the FGD system. Injection of activated carbon into the flue gas does have the potential to generate a new wastestream at a plant, depending on the location of the injection. If the injection occurs upstream of the primary particulate removal system, then the mercury-containing carbon (FGMC waste) is collected and handled the same way as, and together with, the fly ash. Therefore, if the fly ash is wet sluiced, then the FGMC wastes are also wet sluiced and likely sent to the same surface impoundment. In this case, adding the FGMC waste to the fly ash can increase the amount of mercury in the fly ash transport water. If the injection occurs downstream of the primary particulate removal system, the plant will need a secondary particulate removal system (typically a fabric filter) to capture the FGMC wastes.

Of the current or planned activated carbon injection systems, most operate upstream injection. However, plants that wish to market their fly ash will typically inject the activated carbon downstream of the primary particulate removal system to prevent contaminating the fly ash with carbon. For plants operating downstream injection, the FGMC wastes, which would be collected with some carry-over fly ash, could be handled separately from fly ash in either a wet or dry handling system.

5. Combustion Residual Leachate From Landfills and Surface Impoundments

Combustion residuals comprise a variety of wastes from the combustion process, which are generally collected by or generated from air pollution control technologies. These combustion residuals can be stored at the plant in on-site landfills or surface impoundments. Leachate includes liquid, including any suspended or dissolved constituents in the liquid, that has percolated through or drained from waste or other materials placed in a landfill, or that passes through the containment structure (*e.g.,* bottom, dikes, berms) of a surface impoundment. Based on data from the industry survey, most landfills and some impoundments have a system to collect the leachate.

In a lined landfill or impoundment, the combustion residual leachate collected in the liner is typically transported to an impoundment (*e.g.,* collection pond). Some plants discharge the effluent from these impoundments containing combustion residual leachate directly to receiving waters, while other plants first send the impoundment effluent to another impoundment handling the ash transport water or other treatment system (*e.g.,* constructed wetlands) prior to discharge. Unlined impoundments and landfills usually do not collect leachate, which would allow the leachate to potentially migrate to nearby ground waters, drinking water wells, or surface waters.

Using data from the industry survey and site visits, surface impoundments are the most widely used systems to treat combustion residual leachate. EPA also identified different management practices, with approximately one-third of plants collecting the combustion residual leachate from impoundments and recycling it back to the impoundment from which it was collected. Some plants use their collected leachate as water for moisture conditioning of dry fly ash prior to disposal or for dust control around dry unloading areas and landfills.

6. Gasification Wastewater

Integrated Gasification Combined Cycle (IGCC) plants use a carbon-based feedstock (*e.g.,* coal or petroleum coke) and subject it to high temperature and pressure to produce a synthetic gas (syngas), which is used as the fuel for a combined cycle generating unit. After the syngas is produced, it undergoes cleaning prior to combustion. The wastewater generated by these cleaning processes, along with any condensate generated in flash tanks, slag handling water, or wastewater generated from the production of sulfuric acid, is referred to as ''grey water'' or ''sour water,'' and is generally treated prior to reuse or discharge.

EPA is aware of three plants that operate IGCC units in the U.S. All three plants currently treat their gasification wastewater with vapor-compression evaporation systems. One of these plants also includes a cyanide destruction stage as part of the treatment system.

VII. Selection of Regulated Pollutants

A. Identifying the Pollutants of Concern

In determining which pollutants warrant regulation in this rule, EPA first evaluated the wastewater characteristics to identify pollutants of concern (POCs). Constituents present in steam electric power plant wastewater are primarily derived from the parent carbon feedstock (*e.g.,* coal, petroleum coke). EPA characterized the wastewater generated by the industry and identified POCs (those pollutants commonly found) for each of the regulated wastestreams. For wastestreams where the final rule establishes numeric effluent limitations or standards, the POCs are those pollutants that have been quantified in a wastestream at sufficient frequency at treatable levels (concentrations). For wastestreams where EPA is establishing zero discharge limitations or standards, the POCs identified for each wastestream are those pollutants that are confirmed to be present at sufficient frequency in untreated wastewater samples of that wastestream. In both cases, in response to public comments, where EPA had available paired source water (intake water) data for a particular pollutant in an untreated process wastewater sample, EPA compared the two to confirm that the concentration in the untreated process wastewater sample exceeded that of the source water. See TDD Section 6.6 for details on EPA's analysis of POCs.

B. Selection of Pollutants for Regulation Under BAT/NSPS

For wastestreams where the final rule establishes numeric effluent limitations or standards, effluent limitations or standards for all POCs are not necessary to ensure that the pollutants are adequately controlled because many of the pollutants originate from similar sources, have similar treatability, and are removed by similar mechanisms. Because of this, it is sufficient to establish effluent limitations or standards for one or more indicator pollutants, which will ensure the removal of other POCs. For wastestreams where the final rule establishes zero discharge limitations or standards, all POCs are directly regulated.

For wastestreams where the final rule establishes numeric effluent limitations or standards, EPA selected a subset of pollutants as indicators for all regulated pollutants upon consideration of the following factors:

- EPA did not set limitations or standards for pollutants associated with treatment system additives because regulating these pollutants could interfere with efforts to optimize treatment system operation.
- EPA did not set limitations or standards for pollutants for which the treatment technology was ineffective

(*e.g.,* pollutant concentrations remained approximately unchanged or increased across the treatment system).

- EPA did not set limitations or standards for pollutants that are adequately controlled through the regulation of another indicator pollutant because they have similar properties and are treated by similar mechanisms as a regulated pollutant.

See TDD Section 11 for additional detail on EPA's analysis and rationale for selecting the regulated pollutants.

C. Methodology for the POTW Pass-Through Analysis (PSES/PSNS)

Before establishing PSES/PSNS for a pollutant, EPA examines whether the pollutant ''passes through'' a POTW to waters of the U.S. or interferes with the POTW operation or sludge disposal practices. In determining whether a pollutant passes through POTWs for these purposes, EPA generally compares the percentage of a pollutant removed by well-operated POTWs performing secondary treatment to the percentage removed by the BAT/NSPS technology basis. A pollutant is determined to pass through POTWs when the median percentage removed nationwide by well-operated POTWs is less than the median percentage removed by the BAT/NSPS technology basis. Pretreatment standards are established for those pollutants regulated under BAT/NSPS that pass through POTWs.

Under this rule, for those wastestreams regulated with a zero discharge limitation or standard, EPA set the percentage removed by the technology basis at 100 percent. Because a POTW would not be able to achieve 100 percent removal of wastewater pollutants, it is appropriate to set PSES at zero discharge, otherwise pollutants would pass through the POTW.

For wastestreams for which the final rule establishes numeric limitations and standards, EPA determined the pollutant percentage removed by the rule's technology basis using the same data sources used to determine the long-term averages for each set of limitations and standards (see TDD Section 13). As it has done for other rulemakings, EPA determined the nationwide percentage removed by well-operated POTWs performing secondary treatment using one of two data sources:

- Fate of Priority Pollutants in Publicly Owned Treatment Works, September 1982, EPA 440/1–82/303 (50 POTW Study); or
- National Risk Management Research Laboratory Treatability Database, Version 5.0, February 2004 (formerly called the Risk Reduction Engineering Laboratory database).

With a few exceptions, EPA performs a POTW pass-through analysis for pollutants selected for regulation for BAT/NSPS for each wastestream of concern. The exception is for conventional pollutants such as BOD_5, TSS, and oil and grease. POTWs are designed to treat these conventional pollutants; therefore, they are not considered to pass through.

Section VIII, below, summarizes the results of the pass-through analysis. EPA found that all of the pollutants considered for regulation under BAT/NSPS pass through and, therefore, also selected them for regulation under PSES/PSNS. For a more detailed discussion of how EPA performed its pass-through analysis, see TDD Section 11.

VIII. The Final Rule

A. BPT

The final rule does not revise the previously established BPT effluent limitations because the rule regulates the same wastestreams at the more stringent BAT/NSPS level of control. The rule does, however, make certain structural modifications to the BPT regulations in light of new and revised definitions. In particular, the final rule establishes separate definitions for FGD wastewater, FGMC wastewater, gasification wastewater, and combustion residual leachate, making clear that these four wastestreams are no longer considered low volume waste sources. Given these new and revised definitions, the final rule modifies the structure of the previously established BPT regulations so that they specifically identify these four wastestreams, but without changing their applicable BPT limitations, which are equal to those for low volume waste sources.

B. BAT/NSPS/PSES/PSNS Options

EPA analyzed many regulatory options at proposal, the details of which were discussed fully in the document published on June 7, 2013 (78 FR 34432). EPA proposed to regulate pollutants found in seven wastestreams found at steam electric power plants, each based on particular control technologies. Depending on the interests represented, public commenters supported virtually all of the regulatory options that EPA proposed—from the least stringent to the most stringent, and many options in between. For this final rule, based on public comments, EPA also considered a few additional regulatory options. None of these additional regulatory options involve regulation of different pollutants or wastestreams, or the application of different control technologies, than those explicitly considered and presented at proposal. Rather, they involve slight variations on the overall packaging of the key options presented at proposal. Thus, in developing this final rule, EPA named six main regulatory options, Options A, B, C, D, E, and F.[14] Table VIII–1 summarizes these six regulatory options. In general, as one moves from Option A to Option F, there is a greater estimated reduction in pollutant discharges from steam electric power plants and a higher associated cost.

The following paragraphs describe the six options (Options A through F), by wastestream, including the technology bases for the requirements associated with each.

TABLE VIII–1—FINAL RULE: STEAM ELECTRIC MAIN REGULATORY OPTIONS

Wastestreams	Technology basis for the main BAT/NSPS/PSES/PSNS regulatory options					
	A	B	C	D	E	F
FGD Wastewater	Chemical Precipitation	Chemical Precipitation + Biological Treatment	Chemical Precipitation + Biological Treatment	Chemical Precipitation + Biological Treatment	Chemical Precipitation + Biological Treatment	Evaporation.
Fly Ash Transport Water	Dry handling	Dry handling	Dry handling	Dry handling	Dry handling	Dry handling.

[14] Option B is equivalent to Proposed Option 3, Option C is equivalent to Proposed Option 4a, Option E is equivalent to Proposed Option 4, and Option F is equivalent to Proposed Option 5. Option A is a slight variant of Proposed Options 1 and 3 and Option D is a slight variant of Proposed Option 4.

TABLE VIII–1—FINAL RULE: STEAM ELECTRIC MAIN REGULATORY OPTIONS—Continued

Wastestreams	Technology basis for the main BAT/NSPS/PSES/PSNS regulatory options					
	A	B	C	D	E	F
Bottom Ash Transport Water.	Impoundment (Equal to BPT)	Impoundment (Equal to BPT)	Dry handling/ Closed loop (for units >400 MW); Impoundment (Equal to BPT)(for units ≤400 MW)	Dry handling/ Closed loop	Dry handling/ Closed loop	Dry handling/ Closed loop.
FGMC Wastewater	Dry handling	Dry handling	Dry handling	Dry handling	Dry handling	Dry handling.
Gasification Wastewater	Evaporation	Evaporation	Evaporation	Evaporation	Evaporation	Evaporation.
Combustion Residual Leachate.	Impoundment (Equal to BPT).	Impoundment (Equal to BPT).	Impoundment (Equal to BPT).	Impoundment (Equal to BPT).	Chemical Precipitation.	Chemical Precipitation.
Nonchemical Metal Cleaning Wastes.	[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved].

Consistent with the proposal, under all Options A through F, for oil-fired generating units and small generating units (50 MW or smaller) that are existing sources, the rule would establish BAT/PSES effluent limitations and standards on TSS in fly ash transport water, bottom ash transport water, FGD wastewater, FGMC wastewater, combustion residual leachate, and gasification wastewater equal to the previously promulgated BPT effluent limitations on TSS [15] in fly ash transport water, bottom ash transport water, and low volume waste sources, where applicable. Under Options A through E, EPA would establish a voluntary incentives program for plants that choose to meet BAT limitations for FGD wastewater based on evaporation technology, as described in Section VIII.C.13. Moreover, as EPA proposed, under all Options A through F, the rule would establish an anti-circumvention provision designed to ensure that the purpose of the rule is achieved, as further described below, in Section VIII.G. Finally, as EPA proposed, under all Options A through F, the rule would correct a typographical error in the previously promulgated regulations, as well as make certain clarifying revisions to the applicability provision of the regulations, as further described below, in Section VIII.H.

1. FGD Wastewater

Under Option A, EPA would establish effluent limitations and standards for mercury and arsenic in FGD wastewater based on treatment using chemical precipitation. Under Options B through E, EPA would establish effluent limitations and standards for mercury, arsenic, selenium, and nitrate/nitrite as N in FGD wastewater based on treatment using chemical precipitation (as under Option A) followed by biological treatment. Under Option F, EPA would establish effluent limitations and standards for mercury, arsenic, selenium, and TDS in FGD wastewater based on treatment using an evaporation system. Under all options, to facilitate implementation of the new BAT/NSPS/PSES/PSNS requirements, EPA would also promulgate a definition for FGD wastewater, making clear it would no longer be considered a low volume waste source.

2. Fly Ash Transport Water

Under all Options A through F, EPA would establish (or in the case of NSPS/PSNS, maintain) zero discharge effluent limitations and standards for pollutants in fly ash transport water based on use of a dry handling system.

3. Bottom Ash Transport Water

Under Options A and B, EPA would establish effluent limitations and standards for bottom ash transport water equal to the previously promulgated BPT limitation on TSS, which is based on the use of a surface impoundment. Under Options D, E, and F, EPA would establish zero discharge effluent limitations and standards for pollutants in bottom ash transport water based on one of two technologies: A dry handling system or a closed-loop system. Under Option C, EPA would establish, for bottom ash transport water, zero discharge limitations and standards based on dry handling or closed-loop systems only for generating units with a nameplate capacity of more than 400 MW. Units with a nameplate capacity equal to or less than 400 MW would have to meet new effluent limitations and standards equal to the previously established BPT limitation on TSS, based on surface impoundments.

4. FGMC Wastewater

Under all Options A through F, EPA would establish zero discharge effluent limitations and standards for FGMC wastewater based on use of a dry handling system. Under all Options A through F, EPA would establish a separate definition for FGMC wastewater, making clear it would no longer be considered a low volume waste source.

5. Gasification Wastewater

The technology basis for control of gasification wastewater under all Options A through F is an evaporation system. Under these options, EPA would establish limitations and standards on arsenic, mercury, selenium, and TDS in gasification wastewater. Under all Options A through F, EPA would establish a separate definition for gasification wastewater, making clear it would no longer be considered a low volume waste source.

6. Combustion Residual Leachate

Under Options A through D, EPA would establish effluent limitations and standards for combustion residual leachate equal to the previously promulgated BPT limitation on TSS for low volume waste sources. Under Options E and F, EPA would establish additional limitations and standards for arsenic and mercury in combustion residual leachate based on treatment using a chemical precipitation system (the same technology basis for control of FGD wastewater under Option A). Under all Options A through F, EPA would establish a separate definition for combustion residual leachate, making

[15] Although TSS is a conventional pollutant, whenever EPA would be regulating TSS in this final rule, it would be regulating it as an indicator pollutant for the particulate form of toxic metals.

clear it would no longer be considered a low volume waste source.

7. Non-Chemical Metal Cleaning Wastes

Under all Options A through F, EPA would continue to reserve BAT/NSPS/PSES/PSNS for non-chemical metal cleaning wastes, as the previously established regulations do.

C. Best Available Technology

After considering the technologies described in this preamble and Section 7 of the TDD, as well as public comments, and in light of the factors specified in CWA sections 304(b)(2)(B) and 301(b)(2)(A) (see Section IV.B.3), EPA decided to establish BAT effluent limitations based on the technologies described in Option D. Thus, for BAT, the final rule establishes: (1) Limitations on arsenic, mercury, selenium, and nitrate/nitrite as N in FGD wastewater, based on chemical precipitation plus biological treatment; [16] (2) a zero discharge limitation for pollutants in fly ash transport water, based on dry handling; (3) a zero discharge limitation for pollutants in bottom ash transport water, based on dry handling or closed-loop systems; (4) a zero discharge limitation on all pollutants in FGMC wastewater, based on dry handling; (5) limitations on mercury, arsenic, selenium, and TDS in gasification wastewater, based on evaporation; [17] and (6) a limitation on TSS in combustion residual leachate, based on surface impoundments.[18] The final rule also establishes new definitions for FGD wastewater, FGMC wastewater, gasification wastewater, and combustion residual leachate.

1. FGD Wastewater

This rule identifies treatment using chemical precipitation followed by biological treatment as the BAT technology basis for control of pollutants discharged in FGD wastewater. More specifically, the technology basis for BAT is a chemical precipitation system that employs hydroxide precipitation, sulfide precipitation (organosulfide), and iron coprecipitation, followed by an anoxic/anaerobic fixed-film biological treatment system designed to remove heavy metals, selenium, and nitrates.[19] After accounting for industry changes described in Section V, forty-five percent of all steam electric power plants with wet scrubbers have equipment or processes in place able to meet the final BAT/PSES effluent limitations and standards.[20] Many of these plants use FGD wastewater management approaches that eliminate the discharge of FGD wastewater.[21] Other plants employ wastewater treatment technologies that reduce the amount of pollutants in the FGD wastestream. Both chemical precipitation and biological treatment are well-demonstrated technologies that are available to steam electric power plants for use in treating FGD wastewater. Based on industry survey responses, 39 U.S. steam electric power plants (44 percent of plants discharging FGD wastewater) use some form of chemical precipitation as part of their FGD wastewater treatment system. More than half of these plants (30 percent of plants discharging FGD wastewater) use both hydroxide and sulfide precipitation in the process to further reduce metals concentrations. In addition, chemical precipitation has been used at thousands of industrial facilities nationwide for the last several decades (see TDD Section 7).

Biological treatment has been tested at power plants for more than ten years and full-scale systems have been operating at a subset of plants for seven years. It has been widely used in many industrial applications for decades, in both the U.S. and abroad, and it has been employed at coal mines. Currently, six U.S. steam electric power plants (approximately ten percent of those discharging FGD wastewater) use biological treatment designed to substantially reduce nitrogen compounds and selenium in their FGD wastewater. Other power plants are considering installing biological treatment to remove selenium, and at least one plant is scheduled to begin operating a biological treatment system for selenium removal soon. Four of the six plants using biological systems to treat their FGD wastewater precede the biological treatment stage with chemical precipitation; thus, the entire system is designed to remove suspended solids, particulate and dissolved metals (such as mercury and arsenic), soluble and insoluble forms of selenium, and nitrate and nitrite forms of nitrogen. These plants show that chemical precipitation followed by biological treatment is technologically available and demonstrated. The other two plants operating anoxic/anaerobic bioreactors to remove selenium precede the biological treatment stage with surface impoundments instead of chemical precipitation. The treatment systems at these two plants are likely to be less effective at removing metals (including many dissolved metals) and would likely face more operational problems than the plants employing chemical pretreatment, but they nevertheless show the efficacy and availability of biological treatment for removing selenium and nitrate/nitrite in FGD wastewater.

A few commenters questioned the feasibility of biological treatment at some power plants. Specifically, they claimed, in part, that the efficacy of biological systems is unpredictable and is subject to temperature changes, high chloride concentrations, scaling, and high oxidation-reduction potential (ORP) in the absorber, which could kill the microorganisms in the bioreactor. EPA's record does not support these assertions for a well-designed and well-operated chemical precipitation and biological treatment system.

EPA's record demonstrates that proper pretreatment prior to biological treatment and proper monitoring with adjustments to the treatment system as necessary are key to reducing operational concerns raised by commenters. Proper pretreatment includes chemical precipitation, which can address wastewater containing high oxidant loads through addition of a reducing agent in one of the treatment

[16] For those plants that choose to participate in the voluntary incentives program, the applicable limitations are for arsenic, mercury, selenium, and TDS in FGD wastewater, based on the use of an evaporation system (see Section VIII.C.13).

[17] For small (50 MW or less) generating units and oil-fired generating units, the final rule establishes different BAT limitations for FGD wastewater, fly ash transport water, bottom ash transport water, FGMC wastewater, and gasification wastewater (see Section VIII.C.12).

[18] The final rule also establishes BAT limitations on TSS in discharges of ''legacy wastewater,'' which are equal to previously established TSS limitations. See Section VIII.C.8.

[19] In estimating costs associated with this technology basis, EPA assumed that in order to meet the limitations and standards, certain plants with high FGD discharge flow rates (greater than or equal to 1,000 gpm) would elect to incorporate flow minimization into their operating practices (by reducing the FGD purge rate or recycling a portion of their FGD wastewater back to the FGD system), where the FGD system metallurgy can accommodate an increase in chlorides. See Section 4.5.4 of EPA's Incremental Costs and Pollutant Removals for the Final Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category (DCNs SE05831 and SE05832).

[20] This value accounts for announced retirements, conversions, and changes plants are projected to make to comply with the CPP and CCR rules.

[21] A variety of approaches that depend on plant specific conditions are used to achieve zero pollutant discharge at these plants, including evaporation ponds, complete recycle, and processes that combine the FGD wastewater with other materials for landfill disposal. Although these technologies, as well as others currently used for achieve zero pollutant discharge, may be available for some plants with FGD wastewater, EPA determined they are not available nationally. For example, evaporation ponds are only available in certain climates. Similarly, complete recycle is only available at plants with appropriate FGD metallurgy.

system's reaction tanks.[22] It also includes pretreatment of FGD wastewater containing exceptionally high levels of nitrates (*e.g.,* greater than 100 ppm nitrate/nitrite as N) using standard denitrification technologies such as membrane bioreactors or stirred-tank bioreactors. Moreover, recent pilot studies of biological treatment systems for FGD wastewater treatment, along with data for full-scale biological treatment systems, demonstrate that monitoring ORP, pH, and total oxidant load is essential for proper operation of these systems. Monitoring these parameters enables the plant to adjust the system as necessary. For example, plants that monitor ORP in the absorber or in the FGD purge will have sufficient advanced warning to respond to elevated ORP levels by adding a chemical reductant to the chemical precipitation system and/or increasing the feed rate of the nutrient mix in the biological reactor. EPA's cost estimates account for all of these pretreatment and monitoring steps. EPA's record, moreover, shows that the treatment systems that form the bases for the BAT limitations for FGD wastewater are able to effectively remove the regulated pollutants at varying influent concentrations. See DCN SE05733. Finally, as discussed in Section V.C, vendors continue to make improvements to these systems and to develop non-biological systems for selenium removal. For additional information on strategies to address potential operational concerns, see DCNs SE04208 and SE04222.

Some commenters also claimed that the efficacy of biological systems in removing selenium is subject to changes in switching from one coal type to another (also referred to as fuel flexing). Where EPA had biological treatment performance data paired with fuel type, EPA reviewed it and found that existing biological treatment systems continue to perform well during periods of fuel switching. See DCN SE05846. The data show that, in all cases except one, the plants met the selenium limitations following fuel switches. In one instance when a plant switched to a certain coal type, the plant exceeded the final daily maximum selenium limitation for one out of thirteen observations for the month while the average of all values for that month were below the final monthly selenium limitation. This plant was not subject to a selenium limit at the time data was collected. Moreover, EPA's record demonstrates that effective communication between the operator(s) of the generating unit and the boiler, as well as bench testing and monitoring the ORP, and making proper adjustments to the operation of the treatment system, would make it possible to prevent potential selenium exceedances at this plant. Data for two other plants operating full-scale biological treatment systems shows that fuel switches should not result in exceeding the effluent limitations. EPA also has data from a pilot project at another plant employing the same type of coal used by the one plant that experienced elevated selenium effluent concentrations following a coal switch. The data for this pilot project demonstrate effective selenium removal by the BAT technology basis, with all effluent values at concentrations below the BAT limitations established in this rule.

EPA also reviewed effluent data in the record for plants operating combined chemical precipitation and biological treatment for FGD wastewater to evaluate how cycling operation (*i.e.,* changes in electricity generation rate) and short or extended shutdown periods may affect the ability of plants to meet the BAT effluent limitations. These data demonstrate that cycling operations and shutdown periods, whether short or long in duration, are manageable and do not result in plants being unable to meet the ELG effluent limitations. See DCN SE05846.

EPA did not select surface impoundments as the BAT technology basis for FGD wastewater because it would not result in reasonable further progress toward eliminating the discharge of all pollutants, particularly toxic pollutants (see CWA section 301(b)(2)(A)). Surface impoundments, which rely on gravity to remove particulates from wastewater, are the technology basis for the previously promulgated BPT effluent limitations for low volume waste sources. Pollutants that are present mostly in soluble (dissolved) form, such as selenium, boron, and magnesium, are not effectively and reliably removed by gravity in surface impoundments. For metals present in both soluble and particulate forms (such as mercury), gravity settling in surface impoundments does not effectively remove the dissolved fraction. Furthermore, the environment in some surface impoundments can create chemical conditions (*e.g.,* low pH) that convert particulate forms of metals to soluble forms, which are not removed by the gravity settling process. Additionally, the Electric Power Research Institute (EPRI) has reported that adding FGD wastewater to surface impoundments used to treat ash transport water can reduce the settling efficiency in the impoundments due to gypsum particle dissolution, thus increasing the effluent TSS concentrations. Discharging wastewater containing elevated levels of TSS would likely result in also discharging other pollutants (*e.g.,* metals) in higher concentrations. EPRI has also reported that FGD wastewater includes high loadings of volatile metals, which can increase the solubility of metals in surface impoundments, thereby leading to increased levels of dissolved metals and higher concentrations of metals in discharges from surface impoundments. Finally, as described in Section 8 of the TDD, surface impoundments are also subject to seasonal turnover, which adversely affects their efficacy. Seasonal turnover occurs when the impoundment's upper layer of water becomes cooler and denser, typically as the season changes from summer to fall. The cooler, upper layer of water then sinks and causes the entire volume of the impoundment to circulate, which can result in resuspension of solids that had settled to the bottom and a consequent increase in the concentrations of pollutants discharged from the impoundment.

Chemical precipitation and biological treatment are more effective than surface impoundments at removing both soluble and particulate forms of metals, as well as other pollutants such as nitrogen compounds and TDS. Because many of the pollutants of concern in FGD wastewater are present in dissolved form and would not be removed by surface impoundments, and because of the relatively large mass loads of these pollutants (*e.g.,* selenium, dissolved mercury) discharged in the FGD wastestream, EPA decided not to finalize BAT effluent limitations for FGD wastewater based on surface impoundments.

EPA also rejected identifying chemical precipitation, alone, (Option A) as BAT for FGD wastewater because, while chemical precipitation systems are capable of achieving removals of various metals, the technology is not effective at removing selenium, nitrogen compounds, and certain metals that contribute to high concentrations of TDS in FGD wastewater. These pollutants of concern are discharged by steam electric power plants throughout the nation, causing adverse human health impacts and some of the most egregious environmental impacts (see Section XIII and EA). In light of this, and the fact that economically achievable technologies are available to

[22] EPA included the equipment for chemical addition of a reducing agent in its cost estimates for Options B through E.

reduce these pollutants of concern, EPA determined that, by itself, chemical precipitation would not result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants (see CWA section 301(b)(2)(A)), and rejected that technology basis as BAT in favor of chemical precipitation followed by anaerobic/anoxic biological treatment.

EPA also decided not to establish, for all steam electric power plants, BAT limitations for FGD wastewater based on treatment using an evaporation system. In particular, this technology basis would employ a falling-film evaporator (also known as a brine concentrator) to produce a concentrated wastewater stream (brine) and a distillate stream.[23] While evaporation systems are effective at removing boron and pollutants that contribute to high concentrations of TDS, EPA decided it would not be appropriate to identify evaporation as the BAT technology basis for FGD wastewater at all steam electric power plants because of the high cost of possible regulatory requirements based on evaporation for discharges of FGD wastewater at existing facilities. The annual cost to the industry of limitations based on evaporation would be more than 2 and ½ times the cost to industry estimated for the final rule (after tax) (approximately $570 million more expensive than the final rule, on an annual basis, after tax). Given the high costs associated with the technology, and the fact that the steam electric industry is facing costs associated with several other rules in addition to this rule, EPA decided not to establish BAT limitations for FGD wastewater based on evaporation for all steam electric power plants. Nevertheless, as described further below, in Section VIII.C.13, the final rule does establish a voluntary incentives program under which steam electric power plants can choose to be subject to more stringent BAT limitations for FGD wastewater based on evaporation.

Finally, EPA decided not to establish a requirement that would direct permitting authorities to establish limitations for FGD wastewater using site-specific BPJ. Public commenters representing industry, state, and environmental group interests urged EPA not to establish any requirement that would leave BAT effluent limitations for FGD wastewater to be determined on a BPJ basis. Sections 301 and 304 of the CWA require EPA to develop nationally applicable ELGs based on the best available technology economically achievable, taking certain factors into account. EPA decided that it would not be appropriate to leave FGD wastewater requirements in the final rule to be determined on a BPJ basis because there are sufficient data to set uniform, nationally applicable limitations on FGD wastewater at plants across the nation. Given this, BPJ permitting of FGD wastewater would place an unnecessary burden on permitting authorities, including state and local agencies, to conduct a complex technical analysis that they may not have the resources or expertise to complete. BPJ permitting of FGD wastewater would also unnecessarily burden the regulated industry because of associated delays and uncertainty with respect to permits.

2. Fly Ash Transport Water

This rule identifies dry handling as the BAT technology basis for control of pollutants in fly ash transport water. Specifically, the technology basis for BAT is a dry vacuum system that employs a mechanical exhauster to pneumatically convey the fly ash (via a change in air pressure) from hoppers directly to a silo. Dry handling is clearly available to control the pollutants present in fly ash transport water. Today, the vast majority of steam electric power plants use dry handling techniques to manage fly ash, and by doing so avoid generating fly ash transport water. All new generating units built since the ELGs were last revised in 1982 have been subject to a zero discharge standard for pollutants in fly ash transport water. In addition, many owners and operators with generating units that are not subject to the previously established zero discharge NSPS for fly ash transport water have chosen to retrofit their units with dry fly ash handling technology to meet operational needs or for economic reasons. The trend in the industry is, moreover, toward the conversion and use of dry fly ash handling systems. See TDD Section 4.5. Based on data collected in the industry survey, EPA estimates that approximately 80 percent of coal and petroleum coke-fired generating units operate dry fly ash handling systems. Since the survey, companies have continued to upgrade, or announce plans to upgrade, their ash handling systems at generating units. See TDD Section 4.5.

Dry ash handling does not adversely affect plant operations or reliability, and it promotes the beneficial reuse of coal combustion residuals. In addition, converting to dry fly ash handling eliminates the need to treat fly ash transport water in a surface impoundment, and it reduces the amount of wastes entering surface impoundments and the risk and severity of structural failures and spills.

EPA decided not to finalize a BAT limitation on fly ash transport water equal to the previously promulgated BPT limitation on TSS, based on the technology of surface impoundments, for the same reasons (where applicable) that EPA did not identify surface impoundments as BAT for FGD wastewater (see Section VIII.C.1).

3. Bottom Ash Transport Water

This rule identifies dry handling or closed-loop systems as the BAT technology basis for control of pollutants in bottom ash transport water.[24] More specifically, the first technology basis for BAT is a system in which bottom ash is collected in a water quench bath and a drag chain conveyor (mechanical drag system) then pulls the bottom ash out of the water bath on an incline to dewater the bottom ash. The second technology basis for BAT is a system in which the bottom ash is transported using the same processes as a wet-sluicing system, but instead of going to an impoundment, the bottom ash is sluiced to a remote mechanical drag system. Once there, a drag chain conveyor pulls the bottom ash out of the water on an incline to dewater the bottom ash, and the transport (sluice) water is then recycled back to the bottom ash collection system.

These technologies for control of bottom ash transport water are demonstrably available. Based on survey data, more than 80 percent of coal-fired generating units built in the last 20 years have installed dry bottom ash handling systems. In addition, EPA found that more than half of the entities that would be subject to BAT requirements for bottom ash transport water are already employing zero discharge technologies (dry handling or closed-loop wet ash handling) or planning to do so in the near future.

Dry bottom ash handling does not adversely affect plant operations or reliability, and shifting to dry bottom ash handling offers certain benefits. As was the case for dry fly ash handling, shifting to dry bottom ash handling eliminates the need to send bottom ash transport water to a surface impoundment, and it reduces the

[23] This evaporation step would have been preceded by a chemical precipitation step using hydroxide precipitation, sulfide precipitation, and iron co-precipitation, as well as a softening step.

[24] EPA identified two technologies, a mechanical drag system or a remote mechanical drag system, as the BAT technology basis for bottom ash transport water because of potential space constraints at some plants' boilers.

amount of waste entering surface impoundments and the risk and severity of structural failures and spills. Furthermore, one way companies may choose to comply with the final rule's requirements is to install a completely dry bottom ash system, which increases the energy efficiency of the boiler, thus reducing the amount of coal burned and associated emissions of carbon dioxide (CO_2) and other pollutants per MW of electricity generated. On an annual basis, EPA calculated significant fuel savings and reduced air emissions from such systems, the value of which EPA estimates to be $41 million to $117 million per year.[25] See DCN SE05980.

EPA did not identify surface impoundments as BAT for bottom ash transport water for the same reasons (where applicable) that it did not identify surface impoundments as BAT for FGD wastewater (see Section VIII.C.1). Moreover, because the estimated overall cost of the rule has decreased since proposal (see Section IX), EPA also decided that establishing different bottom ash transport water limitations for generating units of and below a certain size (other than 50 MW, as described in Section VIII.C.12), as in Option C, was not warranted.

At proposal and for the final rule, EPA considered an option that would have established differentiated bottom ash transport water requirements for units below 400 MW (Option C). Some public commenters stated that EPA's record does not support differentiated requirements for bottom ash transport water. They stated that BAT should be established at a level at which the costs are affordable to the industry as a whole, and that the cost to a unit in terms of dollars per amount of energy produced (in MW) is not a relevant factor. They cited EPA's record, which demonstrates that units of all sizes have installed dry handling and closed-loop systems, as well as EPA's economic achievability analysis, which does not show that units of 400 MW or less are especially likely to shut down if faced with a zero discharge requirement. Other commenters supported EPA's consideration of the relative magnitude of costs per amount of energy produced for units below or equal to 400 MW, as compared to larger units, as well as differentiated bottom ash transport water requirements for these units.

EPA reviewed its record and re-evaluated whether it would be appropriate to establish differentiated requirements for discharges of bottom ash transport water from existing sources based on unit size, in light of comments and the key changes since proposal discussed in Section V. Annualized cost per amount of energy produced increases along a smooth curve moving from the very largest units to the smallest units. See DCN SE05813. That, however, is expected due to economies of scale. There is no clear breaking point at which to establish a size threshold for purposes of differentiated requirements for bottom ash transport water.[26] Furthermore, EPA collected information in the industry survey that found that units of all sizes, including those less than 400 MW, have installed dry handling and closed-loop systems. And, as further described below, EPA projects a net retirement of only 843 MW under the final rule. This suggests that, as a group, units of 400 MW or less do not face particularly unique hardships under the final rule with respect to the industry as a whole. For these reasons, the final rule does not establish differentiated bottom ash transport water requirements for units equal to or below 400 MW (or for units equal to or below any other size threshold, other than 50 MW, as explained in Section VIII.C.12).

4. FGMC Wastewater

This rule identifies dry handling as the BAT technology basis for the control of pollutants in FGMC wastewater. More specifically, the technology basis for BAT is a dry vacuum system that employs a mechanical exhauster to convey the FGMC waste (via a change in air pressure) from hoppers directly to a silo. Dry handling of FGMC waste is available and well demonstrated in the industry; indeed, nearly all plants with FGMC systems use dry handling systems. Plants using sorbent injection systems (*e.g.,* activated carbon injection) to reduce mercury emissions from the flue gas typically handle the spent sorbent in the same manner as their fly ash (see Section VI.B.4 and TDD Section 7.5). As of 2009, 92 percent of the industry generating FGMC waste uses dry handling to manage it. Only a few plants use wet systems to transport the spent sorbent to disposal in surface impoundments. Based on the industry survey, the plants using wet handling systems operate them as closed-loop systems and do not discharge FGMC wastewater, or they already have a dry handling system that is capable of achieving zero discharge. Under the zero discharge limitation, these plants could choose to continue to operate their wet systems as closed-loop systems, or they could convert to dry handling technologies by managing the fly ash and spent sorbent together in a retrofitted dry system (rather than an impoundment) or by installing dedicated dry handling equipment for the FGMC waste similar to the equipment used for fly ash.

EPA decided that it would not be appropriate to establish BAT limitations for FGMC wastewater based on surface impoundments for the same reasons (where applicable) that it did not identify surface impoundments as BAT for FGD wastewater (see Section VIII.C.1).

5. Gasification Wastewater

This rule identifies evaporation as the BAT technology basis for the control of pollutants in gasification wastewater. More specifically, the technology basis for BAT is an evaporation system using a falling-film evaporator (or brine concentrator) to produce a concentrated wastewater stream (brine) and a reusable distillate stream. This evaporation technology is available and well demonstrated in the industry for treatment of gasification wastewater. All three IGCC plants now operating in the U.S. (the only existing sources of gasification wastewater) use evaporation technology to treat their gasification wastewater.

EPA did not identify surface impoundments as BAT for gasification wastewater for the same reasons (where applicable) that it did not identify surface impoundments as BAT for FGD wastewater (see Section VIII.C.1). In addition, one existing IGCC plant previously used a surface impoundment to treat its gasification wastewater, and the impoundment effluent repeatedly exceeded its NPDES permit effluent limitations necessary to meet applicable WQS. Because of the demonstrated inability of surface impoundments to remove the pollutants of concern, and given that current industry practice is treatment of gasification wastewater using evaporation, EPA concluded that surface impoundments do not represent BAT for gasification wastewater.

EPA also considered including cyanide treatment as part of the technology basis for BAT (as well as NSPS, PSES, and PSNS) for gasification wastewater. EPA is aware that the Edwardsport IGCC plant, which began commercial operation in June 2013, includes cyanide destruction as one step

[25] Neither these savings nor the fuel and emissions reductions have been incorporated into EPA's analyses for this final rule.

[26] At the same time, costs per amount of energy produced do begin to increase very dramatically as one moves from units above 50 MW to units that are equal to 50 MW and smaller, and thus for reasons described in Section VIII.C.12, the final rule establishes different requirements for units of 50 MW or less for several wastestreams, including bottom ash transport water.

in the treatment process for gasification wastewater. EPA, however, does not currently have sufficient data with which to calculate possible ELGs for cyanide. Thus, EPA decided not to establish cyanide limitations or standards for gasification wastewater in this rule. This decision does not preclude permitting authorities from setting more stringent effluent limitations where necessary to meet WQS. In those cases, plants may elect to install additional treatment, like cyanide destruction, to meet water quality-based effluent limitations.

6. Combustion Residual Leachate

EPA received public comments expressing concern that the proposed definition of combustion residual leachate would apply to contaminated stormwater. Although this was not the Agency's intention, for the final rule, EPA revised the definition to make it clear that contaminated stormwater does not fall within the final definition of combustion residual leachate. This rule identifies surface impoundments as the BAT technology basis for control of pollutants in combustion residual leachate. Based on surface impoundments, which relies on gravity to remove particulates, this rule establishes a BAT limitation on TSS in combustion residual leachate equal to the previously promulgated BPT limitation on TSS in low volume waste sources. Few steam electric power plants currently employ technologies other than surface impoundments for treatment of combustion residual leachate. Throughout the development of this rule, EPA considered whether technologies in place for treatment of other wastestreams at steam electric power plants and wastestreams generated by other industries, including chemical precipitation, could be used for combustion residual leachate. At proposal, noting the small amount of pollutants in combustion residual leachate relative to other significant wastestreams at steam electric power plants, and that this was an area ripe for innovation, EPA requested additional information related to cost, pollutant reduction, and effectiveness of chemical precipitation and alternative approaches to treat combustion residual leachate. Commenters did not provide information that EPA could use to establish BAT limitations. Thus, EPA decided not to finalize BAT limitations for combustion residual leachate based on chemical precipitation (Option E). The record demonstrates that the amount of pollutants collectively discharged in combustion residual leachate by steam electric power plants is a very small portion of the pollutants discharged collectively by all steam electric power plants (approximately 3 percent of baseline loadings, on a toxic-weighted basis). Given this, and the fact that this rule regulates the wastestreams representing the three largest sources of pollutants from steam electric power plants (including by setting a zero discharge standard for two out of the three wastestreams), EPA decided that this rule already represents reasonable further progress toward the CWA's goals. The final rule, therefore, establishes BAT limitations for combustion residual leachate equal to the BPT limitation on TSS for low volume waste sources.

7. Timing

As part of the consideration of the technological availability and economic achievability of the BAT limitations in the rule, EPA considered the magnitude and complexity of process changes and new equipment installations that would be required at facilities to meet the rule's requirements. As described in greater detail in Section XVI.A.1, where BAT limitations in this rule are more stringent than previously established BPT limitations, those limitations do not apply until a date determined by the permitting authority that is as soon as possible beginning November 1, 2018 (approximately three years following promulgation of this rule), but that is also no later than December 31, 2023 (approximately eight years following promulgation).

Consistent with the proposal and supported by many commenters, the final rule takes this approach in order to provide the time that many facilities need to raise capital, plan and design systems, procure equipment, and construct and then test systems. It also allows for consideration of plant changes being made in response to other Agency rules affecting the steam electric industry (see Section V.B). Moreover, it enables facilities to take advantage of planned shutdown or maintenance periods to install new pollution control technologies.[27] EPA's decision is also designed to allow, more broadly, for the coordination of generating unit outages in order to maintain grid reliability and prevent any potential impacts on electricity availability, something that public commenters urged EPA to consider. In addition, as requested by industry and states, this final rule and preamble clarify how the ''as soon as possible date'' is determined and implemented for steam electric power plants. The final rule specifies the factors that the permitting authority must consider in determining the ''as soon as possible'' date, and Section XVI.A.1 provides guidance on implementation with respect to timing. In addition, the rule includes a ''no later than'' date of December 31, 2023, for implementation because, as public commenters pointed out, without such a date, implementation could be substantially delayed, and a firm ''no later than'' date creates a more level playing field across the industry. EPA's economic analysis assumes prompt renewal of permits (no permits will be administratively continued) and, thus, that the requirements of the rule will be fully implemented by 2023. While some commenters requested that EPA give permitting authorities the ability to extend the implementation period beyond December 31, 2023, in light of public comments received on the proposal, and the fact that plants can reasonably be expected to meet the new ELGs by December 31, 2023, this timeframe is appropriate given the CWA's pollutant discharge elimination goals (see CWA section 101(a)).

8. Legacy Wastewater

For purposes of the BAT limitations in this rule, this preamble uses the term ''legacy wastewater'' to refer to FGD wastewater, fly ash transport water, bottom ash transport water, FGMC wastewater, or gasification wastewater generated prior to the date determined by the permitting authority that is as soon as possible beginning November 1, 2018, but no later than December 31, 2023 (see Section VIII.C.7). Under this rule, legacy wastewater must comply with specific BAT limitations, which EPA is setting equal to the previously promulgated BPT limitations on TSS in the discharge of fly ash transport water, bottom ash transport water, and low volume waste sources.

EPA did not establish zero discharge BAT limitations for legacy wastewater because technologies that can achieve zero discharge (such as the ones on which the final BAT requirements discussed in Sections VIII.C.2, 3, and 4, above, are based) are not shown to be available for legacy wastewater. Legacy wastewater already exists in wet form, and thus dry handling could not be used eliminate its discharge. Furthermore, EPA lacks data to show that legacy wastewater could be reliably incorporated into a closed-loop process that eliminates discharges, given the variation in operating practices among

[27] EPA's record demonstrates that plants typically have one or two planned shut-downs annually and that the length of these shutdowns is more than adequate to complete installation of relevant treatment and control technologies.

surface impoundments containing legacy wastewater.

EPA also decided not to establish BAT limitations for legacy wastewater based on a technology other than surface impoundments (chemical precipitation, chemical precipitation plus biological treatment, evaporation) because it does not have the data to do so. Data are not available because of the way that legacy wastewater is currently handled at plants.

The vast majority of plants combine some of their legacy wastewater with each other and with other wastestreams, including cooling water, coal pile runoff, metal cleaning wastes, and low volume waste sources in surface impoundments.[28] Once combined in surface impoundments, the legacy wastewater no longer has the same characteristics that it did when it was first generated. For example, the addition of cooling water can dilute legacy wastewater to a point where the pollutants are no longer present at treatable levels. Additionally, some wastestreams have significant variations in flow, such as metal cleaning wastes, which are generally infrequently generated, or coal pile runoff, which is generated during precipitation events. Because surface impoundments are typically open, with no cover, they also receive direct precipitation. As a result of all of this, the characteristics of legacy wastewater contained in surface impoundments (flow rate and pollutant concentrations) vary at both any given plant, as well as across plants nationwide. Furthermore, EPA generally would like to have enough performance data at a well-designed, well-operated plant or plants to derive limitations and standards using its well-established and judicially upheld statistical methodology. In this case, except in limited circumstances, plants do not treat the legacy wastewater that they send to an impoundment using anything beyond the surface impoundment itself.[29] Thus, the final rule establishes BAT limitations for legacy wastewater equal to the previously promulgated BPT limitations on TSS in discharges of fly ash transport water, bottom ash transport water, and low volume waste sources.

Finally, while there are a few plants that discharge from an impoundment containing only legacy FGD wastewater,[30] EPA rejected establishing requirements for such legacy FGD wastewater based on a technology other than surface impoundments. EPA determined that, while it could be possible for plants to treat the legacy FGD wastewater with the same technology used to treat FGD wastewater subject to the BAT limitations described in Section VIII.C.1 (because their characteristics could be similar), establishing requirements based on any technology more advanced than surface impoundments for these legacy ''FGD-only'' wastewater impoundments could encourage plants to alter their operations prior to the date that the final limitations apply in order to avoid the new requirements. Likely, a plant would begin commingling other process wastewater with their legacy FGD wastewater in the impoundment so that any legacy ''FGD-only'' wastewater requirements would no longer apply. Alternatively, plants might choose to pump the legacy FGD wastewater out of the impoundment on an accelerated schedule and prior to the date that the final limitations apply. In this case, the more rapid discharge of the wastewater could result in temporary increases in environmental impacts (*e.g.,* exceedances of WQC for acute impacts to aquatic life). EPA wanted to avoid creating such incentives in this rule, and it therefore decided to establish BAT limitations for discharges of legacy FGD wastewater based on the previously promulgated BPT limitations on TSS for low volume waste sources. Finally, EPA notes that, as a result of the zero discharge requirements for discharges of all pollutants in three wastestreams (fly ash transport water, bottom ash transport water, and flue gas mercury control wastewater), this rule provides strong incentives for steam electric power plants to greatly reduce, if not completely eliminate, the disposal and treatment of their major sources of ash-containing wastewater in surface impoundments. As a result, EPA anticipates that overall volumes of legacy wastewater will continue to decrease dramatically over time, as this rule becomes fully implemented.

9. Economic Achievability

EPA's analysis for the final BAT limitations demonstrates that they are economically achievable for the steam electric industry as a whole, as required by CWA section 301(b)(2)(A). EPA performed cost and economic impact assessments using the Integrated Planning Model (IPM) using a baseline that reflects impacts from other relevant environmental regulations (see RIA).[31] For the final rule, the model showed very small additional effects on the electricity market, on both a national and regional sub-market basis. Based on the results of these analyses, EPA estimated that the requirements associated with the final rule would result in a net reduction of 843 MW in steam electric generating capacity as of the model year 2030, reflecting full compliance by all plants. This capacity reduction corresponds to a net effect of two unit closures or, when aggregating to the level of steam electric generating plants, and net plant closure.[32] These IPM results support EPA's conclusion that the final rule is economically achievable.

10. Non-Water Quality Environmental Impacts, Including Energy Requirements [33]

The final BAT effluent limitations have acceptable non-water quality

[28] For example, there are 65 plants for which EPA estimated FGD wastewater compliance costs and that use an impoundment as part of their treatment system. For 54 of the 65 plants (83 percent), the FGD wastewater is commingled with, at least, fly and/or bottom ash transport water, and for another eight of the 65 plants (12 percent), the FGD wastewater is commingled with non-ash wastewater, such as cooling tower blowdown or low volume waste sources. DCN SE05875.

[29] For example, no plant uses biological treatment or evaporation to treat its legacy fly ash transport water or legacy bottom ash transport water contained in an impoundment, including any impoundment that may contain only legacy fly ash transport water or only legacy bottom ash transport water. Although EPA identified fewer than ten plants that use chemical precipitation to treat wastewater that contains, among other things, ash transport water, EPA does not have any data to characterize the effluent from these systems. Thus, no steam electric industry data exist to establish BAT limitations for possible ''fly ash-only'' impoundments or ''bottom ash-only'' impoundments based on these technologies.

[30] EPA determined that there are three plants that are estimated to incur FGD wastewater compliance costs and that use an impoundment as part of the treatment system, but where the FGD wastewater is not commingled with other process wastewaters in the impoundment. There are no plants that discharge from an impoundment containing only gasification wastewater.

[31] IPM is a comprehensive electricity market optimization model that can evaluate such impacts within the context of regional and national electricity markets. See Section IX for additional discussion.

[32] Given the design of IPM, unit-level and thereby plant-level projections are presented as an indicator of overall regulatory impact rather than a precise prediction of future unit–level or plant-specific compliance actions.

[33] As described in Section VIII.C.13, this rule includes a voluntary incentives program that provides the certainty of more time for plants to implement new BAT requirements, if they adopt additional process changes and controls that achieve limitations on mercury, arsenic, selenium, and TDS in FGD wastewater, based on evaporation technology. The information presented in this section assumes plants will choose to comply with BAT limitations for FGD wastewater based on chemical precipitation and biological treatment. EPA does not know how many plants will opt into the voluntary incentives program. Therefore, EPA also calculated non-water quality environmental impacts assuming all plants will elect to comply with the voluntary incentives program and similarly found these impacts to be acceptable. See DCN SE05051.

environmental impacts, including energy requirements. Section XII describes in more detail EPA's analysis of non-water quality environmental impacts and energy requirements. EPA estimates that by year 2023, under the final rule and reflecting full compliance, energy consumption increases by less than 0.01 percent of the total electricity generated by power plants. EPA also estimates that the amount of fuel consumed by increased operation of motor vehicles (*e.g.*, for transporting fly ash) increases by approximately 0.002 percent of total fuel consumption by all motor vehicles.

EPA also evaluated the effect of the BAT effluent limitations on air emissions generated by all electric power plants (NO_X, sulfur oxides (SO_X), and CO_2), solid waste generation, and water usage. Under the final rule, NO_X emissions are projected to decrease by 1.16 percent, SO_X emissions are projected to increase by 0.04 percent, and CO_2 emissions are projected to decrease by 0.106 percent due to changes in the mix of electricity generation (*e.g.*, less electricity from coal-fired steam electric generating units and more electricity from natural gas-fired steam electric generating units). Moreover, solid waste generation is projected to increase by less than 0.001 percent of total solid waste generated by all electric power plants. Finally, EPA estimates that the final rule has a positive impact on water withdrawal, with steam electric power plants reducing the amount of water they withdraw by 57 billion gallons per year (155 million gallons per day).

11. Impacts on Residential Electricity Prices and Low-Income and Minority Populations

EPA examined the effects of the final rule on consumers as an additional factor that might be appropriate when considering what level of control represents BAT. If all annualized compliance costs were passed on to residential consumers of electricity, instead of being borne by the operators and owners of power plants (a very conservative assumption), the average monthly increase in electricity bill for a typical household would be no more than $0.12 under the final rule.

EPA also considered the effect of the rule on minority and low-income populations. As explained in Section XVII.J, using demographic data regarding who resides closest to steam electric power plant discharges and who consumes the most fish from waters receiving power plant discharges, EPA concluded that low-income and minority populations benefit to an even greater degree than the general population from the reductions in discharges associated with the final rule.

12. Existing Oil-Fired and Small Generating Units

EPA considered whether subcategorization of the ELGs was warranted based on the factors specified in CWA section 304(b)(2)(B) (see Section IV.B.3 and TDD Section 5). Ultimately, EPA concluded that it would be appropriate to set different limitations for existing small generating units (50 MW or less) and existing oil-fired generating units. No other, different requirements were warranted for this rule under the factors considered.

Oil-Fired Generating Units. For oil-fired generating units, the final rule establishes BAT effluent limitations for FGD wastewater, fly ash transport water, bottom ash transport water, FGMC wastewater, and gasification wastewater equal to previously established BPT limitations on TSS in fly ash transport water, bottom ash transport water, and low volume waste sources. As defined in the rule, oil-fired generating units refer to those that use oil as either the primary or secondary fuel and do not burn coal or petroleum coke. Units that use only oil during startup or for flame stabilization are not considered oil-fired generating units.

EPA decided to finalize these limitations for oil-fired generating units because EPA's record demonstrates that, in comparison to coal- and petroleum coke-fired units, oil-fired units generate substantially fewer pollutants, are generally older and operate less frequently, and in many cases are more susceptible to early retirement when faced with compliance costs attributable to the final rule.

The amount of ash generated by oil-fired units is a small fraction of the amount produced by coal-fired units. Coal-fired units generate hundreds to thousands of tons of ash each day, with some plants generating more than 2,000 tons per day of ash. In contrast, oil-fired units generate less than ten tons of ash per day. This disparity is also apparent when comparing the ash tonnage to the amount of power generated, with coal-fired units producing nearly 1,800 times more ash than oil-fired units (0.6 tons per MW-hour on average for coal units; 0.000319 tons per MW-hour on average for oil units). The amount of pollutants discharged to surface waters is roughly correlated to the amount of ash wastewater discharged; thus, oil-fired generating units discharge substantially fewer pollutants to surface waters than coal-fired units, even when generating the same amount of electricity. EPA estimates that the amount of pollutants discharged collectively by all oil-fired generating units is a very small portion of the pollutants discharged collectively by all steam electric power plants (less than one percent, on a toxic-weighted basis).

Oil-fired generating units are generally among the oldest steam electric units in the industry. Eighty-seven percent of the units are more than 25 years old. In fact, more than a quarter of the units began operation more than 50 years ago. Based on responses to the industry survey, fewer than 20 oil-fired generating units discharged fly ash or bottom ash transport water in 2009. This is likely because only about 20 percent of oil-fired generating units operate as baseload units; the rest are either cycling/intermediate units (about 45 percent) or peaking units (about 35 percent). These units also have notably low capacity utilization. While about 30 percent of the baseload units report capacity utilization greater than 75 percent, almost half report a capacity utilization of less than 25 percent. Eighty percent of the cycling/intermediate units and all peaking units also report capacity utilization less than 25 percent. Thirty-five percent of oil-fired generating units operated for more than six months in 2009; nearly half of the units operated for fewer than 30 days.

While these older and generally intermittently operated oil-fired generating units are capable of installing and operating the treatment technologies that form the bases for this rule, and the costs would be affordable for most plants, EPA concludes that, due to the factors described here, companies may choose to shut down these oil-fired units instead of making new investments to comply with the rule. If these units shut down, EPA is concerned about resulting reductions in the flexibility that grid operators have during peak demand due to less reserve generating capacity to draw upon. But, more importantly, maintaining a diverse fleet of generating units that includes a variety of fuel sources is important to the nation's energy security. Because the supply/delivery network for oil is different from other fuel sources, maintaining the existence of oil-fired generating units helps ensure reliable electric power generation, as commenters confirmed. EPA considered these potential impacts on electric grid reliability and the nation's energy security, under CWA section 304(b)(2)(B), in its decision to establish

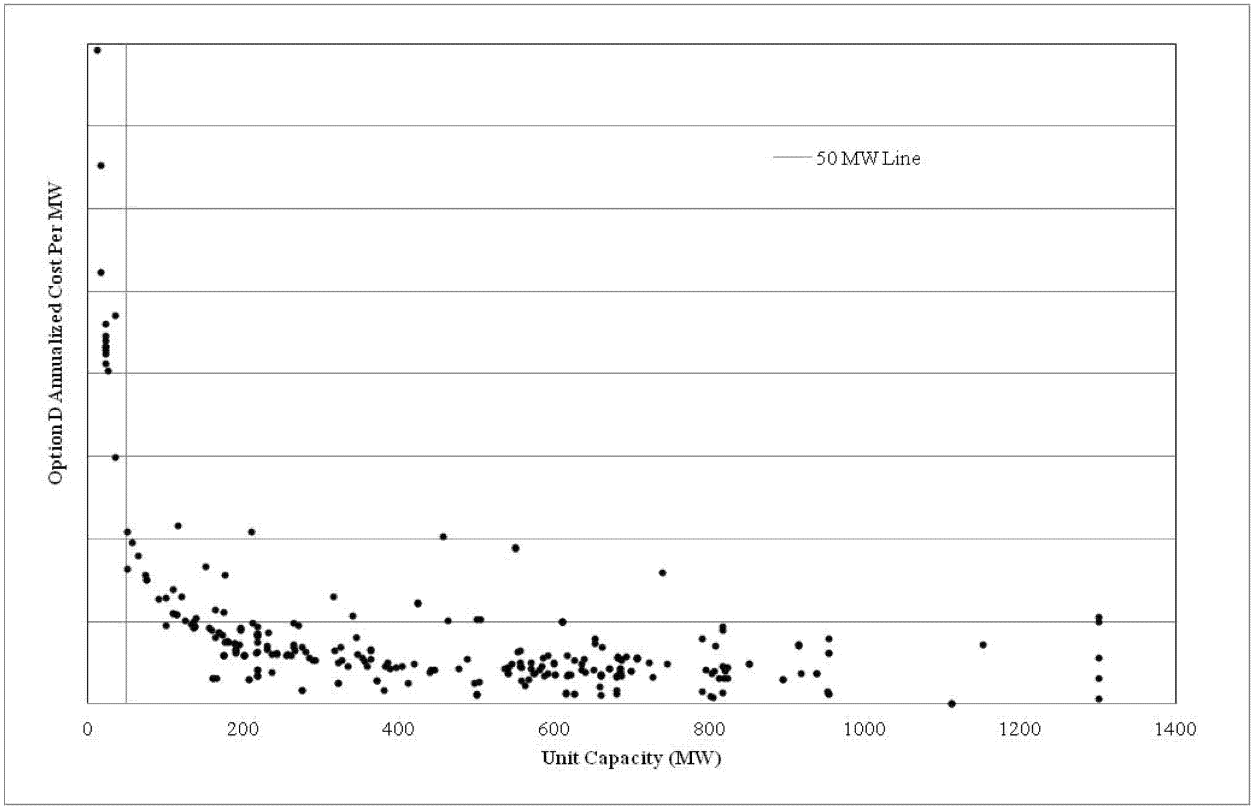
different BAT limitations for oil-fired generating units.

Small Generating Units. The final rule also establishes BAT effluent limitations for FGD wastewater, fly ash transport water, bottom ash transport water, FGMC wastewater, and gasification water at small generating units equal to previously established BPT limitations on TSS for fly ash transport water, bottom ash transport water, and low volume waste sources. For purposes of this rule, small generating units refer to those units with a total nameplate generating capacity of 50 MW or less. EPA decided to establish these different BAT limitations for small units because they are more likely to incur compliance costs that are significantly and disproportionately higher per amount of energy produced (dollars per MW) than those incurred by larger units.

Some commenters stated that the cost to a unit in terms of dollars per MW is not relevant because BAT should be established at a level at which the costs are affordable to the industry as a whole. They noted that EPA's IPM analysis demonstrates that the most stringent proposed regulatory option is economically achievable for all units above 50 MW. Other commenters supported EPA's consideration of the relative magnitude of costs for smaller units compared to larger units, and some suggested EPA should increase the size threshold to 100 MW because those units also have disproportionate costs per amount of energy produced, and they collectively discharge a small fraction of the total pollutants discharged by all steam electric power plants.

EPA reviewed the record and re-evaluated the threshold for small units in light of comments and the key changes since proposal discussed in Section V. EPA considered establishing no threshold, as well as several different size thresholds, for small units. The Agency looked closely at establishing a threshold at 50 MW or 100 MW. While the total amount of pollutants discharged by units at these thresholds is relatively small in comparison to those discharged by all steam electric power plants, the amount of pollutants discharged by units smaller than or equal to 100 MW is almost double the amount of pollutants discharged by units smaller than or equal to 50 MW. See DCN SE05813 for specific information on these pollutant discharges. The record indicates that the cost per unit of energy produced increases as the size of the generating unit decreases, and while there is no clear ''knee of the curve'' at which to establish a size threshold, there is a difference between units at 50 MW and below compared to those above 50 MW. Figure VIII–1, below, shows the annualized cost per amount of energy produced for existing units under Regulatory Option D. Figure VIII–1 shows that the cost per amount of energy produced increases as the size of the generating unit decreases. Annualized cost per amount of energy produced increases gradually as one moves from the very largest units down to 100 MW, and then the cost per amount of energy produced begins to increase more rapidly as one moves from 100 MW down to 50 MW, until it increases very rapidly for units at 50MW and below. Additionally, Figure VIII–1 shows that nearly all of the ratios of cost to amount of energy produced for units smaller than or equal to 50 MW are above those for the entire population of remaining units. The same cannot be said of the ratio for units smaller than or equal to 100 MW.

Figure VIII-1. Regulatory Option D Annualized Cost per MW Compared to Unit Capacity (MW)



In light of the fact that the costs per amount of energy produced are significantly and disproportionately higher for units smaller than or equal to 50 MW compared to larger units, and in light of the very small fraction of pollutants discharged by units smaller than or equal to 50 MW, EPA ultimately decided to establish different requirements for units at this threshold. Keeping in mind the statutory directive to set effluent limitations that result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants (CWA section 301(b)(2)(A)), EPA used its best judgment to balance the competing interests. EPA recognizes that any attempt to establish a size threshold for generating units will be imperfect due to individual differences across units and firms. EPA concludes, however, that a threshold of 50 MW or less reasonably and effectively targets those generating units that should receive different treatment based on the considerations described above, while advancing the CWA's goals. Furthermore, as shown in Section IX.C, EPA's analysis demonstrates that the final rule, with a threshold established at 50 MW, is economically achievable.

13. Voluntary Incentives Program

As part of the BAT for existing sources, the final rule establishes a voluntary incentives program that provides the certainty of more time (until December 31, 2023) for plants to implement new BAT requirements, if they adopt additional process changes and controls that achieve limitations on mercury, arsenic, selenium, and TDS in FGD wastewater, based on evaporation technology (see Section VIII.C.1 for a more complete description of the evaporation technology basis). This optional program offers significant environmental protections beyond those achieved by the final BAT limitations for FGD wastewater based on chemical precipitation plus biological treatment because evaporation technology is capable of achieving significant removals of toxic metals, as well as TDS.[34]

EPA's proposal included a voluntary incentives program that contained, as one element, incentives in the form of additional implementation time for plants that eliminate the discharge of all process wastewater (except cooling water). Public commenters urged EPA to consider establishing, instead, a program that provided incentives for plants that go further than the rule's requirements to reduce discharges from individual wastestreams. Because the final rule already contains zero discharge limitations for several key wastestreams, EPA decided that the voluntary incentives program should focus on FGD wastewater.

EPA concluded that additional pollutant reductions could be achieved under a voluntary incentives program because there are certain reasons a plant might opt to treat its FGD wastewater using evaporation rather than chemical precipitation plus biological treatment. One such reason is the possibility that a plant's NPDES permit may need more stringent limitations necessary to meet applicable WQS. For example, some power plant discharges containing TDS (including bromide) that occur upstream of drinking water treatment plants can negatively impact treatment of source waters at the drinking water treatment plants. A recent study identified four drinking water treatment plants that experienced increased levels of bromide in their source water, and corresponding increases in the formation of carcinogenic disinfection by-products (brominated DPBs) in the finished drinking water, after the installation of wet FGD scrubbers at upstream steam electric power plants (DCN SE04503).

Furthermore, based on trends in the industry and experience with this and other industries, EPA expects that, over time, the costs of evaporation (and other technologies that could achieve the limitations in the voluntary incentives program, including zero discharge practices) will decrease so as to make it an even more attractive option for plants. EPA understands that vendors are already working on changes to this technology to reduce the costs, reduce the amount of solids generated, and improve the solids handling. See TDD Section 7.1.4.

The technology on which the BAT limitations in the voluntary incentives program are based, evaporation, is available to steam electric power plants. EPA identified three plants in the U.S. that have installed, and one plant that is in the process of installing, evaporation systems to treat their FGD wastewater. Four coal-fired power plants in Italy treat FGD wastewater using evaporation. See TDD Section 7. Furthermore, the voluntary program is economically achievable because only those plants that opt to be subject to the BAT limitations based on evaporation, rather than the BAT limitations based on chemical precipitation plus biological treatment, must achieve them. Therefore, any plant that chooses to be subject to the more stringent limitations has determined for itself, in light of its own financial information and economic outlook, that such limitations are economically achievable. Finally, EPA analyzed the non-water quality environmental impacts and energy requirements associated with the voluntary incentives program, and it found them acceptable. See DCN SE05574.

The development of this voluntary incentives program furthers the CWA's ultimate goal of eliminating the discharge of pollutants into the Nation's waters. See CWA section 101(a)(1) and section 301(b)(2)(A) (specifying that BAT will result in ''reasonable further progress toward the national goal of eliminating the discharge of pollutants''). While the final rule's BAT limitations based on chemical precipitation plus biological treatment represent ''reasonable further progress,'' the voluntary incentives program is designed to press further toward achieving the national goal of the Act, as wastewater that has been treated properly using evaporation has very low pollutant concentrations (also making it possible to reuse the wastewater and completely eliminate the discharge of any pollutants). In addition, CWA section 104(a)(1) gives the Administrator authority to establish national programs for the prevention, reduction, and elimination of pollution, and it provides that such programs shall promote the acceleration of research, experiments, and demonstrations relating to the prevention, reduction, and elimination of pollution. EPA anticipates that the voluntary incentives program will effectively accelerate the research into and demonstration of controls and processes intended to prevent, reduce, and eliminate pollution because, under it, plants will opt to employ control and treatment strategies to significantly reduce discharges of pollutants found in FGD wastewater.

Steam electric power plants agreeing to meet BAT limitations for FGD wastewater based on evaporation must comply with those limitations on arsenic, mercury, selenium, and TDS in FGD wastewater.[35] For such plants, the BAT limitations based on evaporation apply as of December 31, 2023, to FGD wastewater generated on and after December 31, 2023. Plants opting to participate in the voluntary program can use the period in advance of this date to research, engineer, design, procure, construct, and optimize systems capable

[34] Properly operated evaporation systems are also capable of achieving the BAT limitations based on chemical precipitation plus biological treatment.

[35] For some plants, proper pretreatment such as softening or chemical precipitation is likely appropriate to ensure effective and efficient operation of evaporation systems.

of meeting the limitations based on evaporation.

For purposes of the voluntary incentives program BAT limitations, legacy FGD wastewater is FGD wastewater generated prior to December 31, 2023. For such legacy FGD wastewater, the final rule establishes BAT limitations on TSS in discharges of FGD wastewater that are equal to BPT limitations for low volume waste sources.

EPA decided not to make the voluntary incentives program available to plants that send their FGD wastewater to POTWs. Under CWA section 307(b)(1), PSES must specify a time for compliance that does not exceed three years from the date of promulgation, and thus the additional time of up to 2023 cannot be given to indirect dischargers. Of course, nothing prohibits an indirect discharger from using any technology, including evaporation, to comply with the final PSES and PSNS.

EPA expects that any plant interested in the voluntary incentives program would indicate their intent to opt into the program prior to issuance of its next NPDES permit, following the effective date of this rule. A plant can indicate its intent to opt into the voluntary program on its permit application or through separate correspondence to the NPDES Director, as long as the signatory requirements of 40 CFR 122.22 are met.

D. Best Available Demonstrated Control Technology/NSPS

After considering all of the technologies described in this preamble and TDD Section 7, as well as public comments, and in light of the factors specified in CWA section 306 (see Section IV.B.4), EPA concluded that the technologies described in Option F represent BADCT for steam electric power plants, and the final rule promulgates NSPS based on that option. Thus, the final NSPS establish: (1) Standards on arsenic, mercury, selenium, and TDS in FGD wastewater, based on evaporation (same basis as for BAT limitations in voluntary incentives program); (2) a zero discharge standard on all pollutants in bottom ash transport water, based on dry handling or closed-loop systems (same bases as for BAT limitations); (3) a zero discharge standard on all pollutants in FGMC wastewater, based on dry handling (same basis as for BAT limitations); (4) standards on mercury, arsenic, selenium, and TDS in gasification wastewater, based on evaporation technology (same basis as for BAT limitations); and (5) standards on mercury and arsenic in discharges of combustion residual leachate, based on chemical precipitation (more specifically, the technology basis is a chemical precipitation system that employs hydroxide precipitation, sulfide precipitation, and iron coprecipitation to remove heavy metals). The final rule also maintains the previously established zero discharge NSPS on discharges of fly ash transport water, based on dry handling.

The record indicates that the technologies that serve as the bases for the final NSPS are well demonstrated based on the performance of plants using the technologies. For example, new steam electric power generating sources have been meeting the previously established zero discharge standard for fly ash transport water since 1982, predominantly through the use of dry handling technologies. Moreover, as described in Section VIII.C.13, three plants in the U.S. and four plants in Italy use evaporation technology to treat their FGD wastewater, and another U.S. plant is in the process of installing such technology for that purpose. Of the approximately 50 coal-fired generating units that were built within the last 20 years, most (83 percent) manage their bottom ash without using water to transport the ash and, as a result, do not discharge bottom ash transport water. The technology basis identified as BAT technology for gasification wastewater represents current industry practice. Every IGCC power plant currently in operation uses evaporation to treat their gasification wastewater, even when the wastewater is not discharged and is instead reused at the plant. In the case of FGMC wastewater, every plant currently using post-combustion sorbent injection (*e.g.*, activated carbon injection) either handles the captured spent sorbent with a dry process or manages the FGMC wastewater so that it is not discharged to surface waters (or has the capability to do so). For combustion residual leachate, chemical precipitation is a well-demonstrated technology for removing metals and other pollutants from a variety of industrial wastewaters, including leachate from landfills not located at power plants. Chemical precipitation is also well demonstrated at steam electric power plants for treatment of FGD wastewater that contains the pollutants in combustion residual leachate.

The NSPS in the final rule pose no barrier to entry. The cost to install technologies at new units is typically less than the cost to retrofit existing units. For example, the cost differential between Options B, C, and D for existing sources is mostly associated with retrofitting controls for bottom ash handling systems. For new sources, however, NSPS based on Option F do not present plants with the same choice of retrofit versus modification of existing processes. This is because every new generating unit must install some type of bottom ash handling system as the unit is constructed. Establishing a zero discharge standard for all pollutants in bottom ash transport water as part of the NSPS means that power plants will install a dry bottom ash handling system during construction instead of installing a wet-sluicing system.

Moreover, EPA assessed the possible impacts of the final NSPS on new sources by comparing the incremental costs of the Option F technologies to the costs of hypothetical new generating units. EPA is not able to predict which plants might construct new units or the exact characteristics of such units. Instead, EPA calculated and analyzed compliance costs for a variety of plant and unit configurations. EPA developed NSPS compliance costs for new sources using a methodology similar to the one used to develop compliance costs for existing sources. EPA's estimates for compliance costs for new sources are based on the net difference in costs between wastewater treatment system technologies that would likely have been implemented at new sources under the previously established regulatory requirements, and those that would likely be implemented under the final rule. EPA estimated that the incremental compliance costs for a new generating unit (capital and O&M) represent approximately 3.3 percent of the annualized cost of building and operating a new 1,300 MW coal-fired plant, with capital costs representing 0.3 to 2.8 percent of the overnight construction costs, and annual O&M costs representing 0.3 to 3.9 percent of the fuel and other O&M cost of operating a new plant.

Finally, EPA analyzed the non-water quality environmental impacts and energy requirements associated with Option F for both existing and new sources. See DCN SE05952 and DCN SE05951. Since there is nothing inherently different between an existing and new source, EPA's analysis with respect to existing sources is instructive. Using both of these analyses, EPA determined that NSPS based on the Option F technologies have acceptable non-water quality environmental impacts and energy requirements.

In contrast to the BAT effluent limitations, this rule establishes the same NSPS for oil-fired generating units and small generating units as for all

other new sources. A key factor that affects compliance costs for existing sources is the need to retrofit new pollution controls to replace existing pollution controls. New sources do not incur retrofit costs because the pollution controls (process operations or treatment technology) are installed at the time of construction. Thus the costs for new sources are lower, even if the pollution controls are identical.

For each of the wastestreams except combustion residual leachate, EPA rejected establishing NSPS based on surface impoundments for the same reasons it rejected establishing BAT based on surface impoundments. For FGD wastewater, EPA also did not establish NSPS based on chemical precipitation for the same reasons it rejected establishing BAT based on that technology. In particular, these other technologies would not achieve as much pollutant reduction as the technology bases in Option F—which is technologically available and economically achievable with acceptable non-water quality environmental impacts and energy requirements—and thus do not represent best available demonstrated control technology.

EPA did not select surface impoundments as the basis for NSPS for combustion residual leachate because, unlike BAT, NSPS represent the ''greatest degree of effluent reduction . . . achievable'' (CWA section 306), and (besides ''cost'' and ''any non-water quality environmental impact and energy requirements,'' discussed above) EPA does not consider ''other factors'' in establishing NSPS. When used to treat combustion residual leachate, chemical precipitation can achieve substantial pollutant reductions as compared to surface impoundments. Thus, EPA has determined that NSPS for leachate based on chemical precipitation achieve the ''greatest degree of effluent reduction'' as that term is used in CWA section 306.

Similarly, EPA did not select chemical precipitation plus biological treatment as the basis for NSPS for FGD wastewater because, under CWA section 306, NSPS reflect ''the greatest degree of effluent reduction . . . achievable.'' Evaporation systems are capable of achieving extremely low pollutant discharge levels, and in fact can be the basis for a plant completely eliminating all discharges associated with FGD wastewater. Moreover, unlike EPA's decision not to identify evaporation as the technology basis for FGD wastewater discharges from all existing sources due to the large associated cost, establishing NSPS for FGD wastewater based on evaporation does not add to the overall estimated cost of the rule because EPA does not predict any new coal-fired generating units will be installed in the foreseeable future. As explained above, however, in the event that a new unit is installed, EPA determined that the NSPS compliance costs would not present a barrier to entry.

E. PSES

Table VIII–2 summarizes the results of EPA's pass-through analysis for the regulated pollutants (with numeric limitations) in each wastestream, as controlled by the relevant BAT and NSPS technology bases.[36] As explained in Section VII.C, EPA did not conduct its traditional pass-through analysis for wastestreams with zero discharge limitations or standards. Zero discharge limitations and standards achieve 100 percent removal of pollutants; therefore, all pollutants in those wastestreams pass through the POTW. As shown in the table, all of the pollutants regulated under BAT/NSPS pass through secondary treatment by a POTW.

TABLE VIII–2—SUMMARY OF PASS-THROUGH ANALYSIS RESULTS

Technology basis/Wastewater stream	Pollutant	Pass through? (yes/no)
Chemical Precipitation for Combustion Residual Leachate (only for NSPS)	Arsenic	Yes.
	Mercury	Yes.
Chemical Precipitation plus Biological Treatment for FGD Wastewater	Arsenic	Yes.
	Mercury	Yes.
	Nitrate/Nitrite as N	Yes.
	Selenium	Yes.
Evaporation for FGD wastewater (only for NSPS)	Arsenic	Yes.
	Mercury	Yes.
	Selenium	Yes.
	TDS	Yes.
Evaporation for Gasification Wastewater	Arsenic	Yes.
	Mercury	Yes.
	Selenium	Yes.
	TDS	Yes.

After considering all of the relevant factors and technology options in this preamble and in the TDD, as well as public comments, as is the case with BAT, EPA decided to establish PSES based on the technologies described in Option D. For PSES, the final rule establishes: (1) Standards on arsenic, mercury, selenium and nitrate/nitrite as N in FGD wastewater; (2) a zero discharge standard on all pollutants in fly ash transport water; (3) a zero discharge standard on all pollutants in bottom ash transport water; (4) a zero discharge standard on all pollutants in FGMC wastewater; (5) standards on mercury, arsenic, selenium, and TDS in gasification wastewater. All of the technology bases for the final PSES are the same as those described for the final BAT limitations. The final rule does not establish PSES for combustion residual leachate because TSS does not pass through POTWs.

EPA selected the Option D technologies as the bases for PSES for the same reasons that EPA selected the Option D technologies as the bases for BAT. EPA's analysis shows that, for both direct and indirect dischargers, the Option D technologies are available and economically achievable, and Option D has acceptable non-water quality environmental impacts, including energy requirements (see Sections IX and XII). EPA rejected other options for

[36] The regulation of TSS in combustion residual leachate (based on surface impoundments) under the final BAT limitations is not represented here because TSS is a conventional pollutant that is effectively treated by POTWs (it does not pass through).

PSES for the same reasons that the Agency rejected other options for BAT. Furthermore, for the same reasons that apply to EPA's final BAT limitations for oil-fired generating units and small generating units, and described in Section VIII.C.12, the final rule does not establish PSES that apply to oil-fired generating units and small generating units (50 MW or smaller).[37] Finally, EPA determined that the final PSES prevent pass through of pollutants from POTWs into receiving streams and also help control contamination of POTW sludge.

As with the final BAT effluent limitations, in considering the availability and achievability of the final PSES, EPA concluded that existing indirect dischargers need some time to achieve the final standards, in part to avoid forced outages (see Section VIII.C.7). However, in contrast to the BAT limitations (which apply on a date determined by the permitting authority that is as soon as possible beginning November 1, 2018, but no later than December 31, 2023), the new PSES apply as of November 1, 2018. Under CWA section 307(b)(1), pretreatment standards shall specify a time for compliance not to exceed three years from the date of promulgation, so EPA cannot establish a longer implementation period. Moreover, unlike requirements on direct discharges, requirements on indirect discharges are not implemented through an NPDES permit and thus are not subject to awaiting the next permit issuance before the limitations are specified clearly for the discharger. EPA has determined that all of the existing indirect dischargers can meet the standards by November 1, 2018, and because there are a handful of indirect dischargers (who would have approximately three years from the date of promulgation to achieve the standards), implementation of the standards by that date would not lead to electricity availability concerns. See RIA.

For purposes of the PSES in this rule, this preamble uses the term ''legacy wastewater'' to refer to FGD wastewater, fly ash transport water, bottom ash transport water, FGMC wastewater, or gasification wastewater generated prior to November 1, 2018. For the same reasons that EPA decided to establish BAT limitations on TSS in discharges of legacy wastewater equal to BPT limitations for fly ash transport water, bottom ash transport water, and low volume waste sources, the final rule does not establish PSES for legacy wastewater (see Section VIII.C.8). TSS and the pollutants it represents are effectively treated by, and thus do not pass through, POTWs.

F. PSNS

After considering all of the relevant factors and technology options described in this preamble and TDD Section 7, as well as public comments, as was the case for NSPS, EPA selected the Option F technologies as the bases for PSNS in this rule. As a result, the final PSNS establish: (1) Standards on arsenic, mercury, selenium, and TDS in FGD wastewater; (2) a zero discharge standard on all pollutants in bottom ash transport water; (3) a zero discharge standard on all pollutants in FGMC wastewater; (4) standards on mercury, arsenic, selenium, and TDS in gasification wastewater; and (5) standards on mercury and arsenic in combustion residual leachate. All the technology bases for the final PSNS are the same as those described for the final NSPS. The final rule also maintains the previously established zero discharge PSNS on discharges of fly ash transport water. As with the final NSPS, this rule establishes the same PSNS for oil-fired generating units and small generating units as for all other new sources.

EPA selected the Option F technologies as the bases for PSNS for the same reasons that EPA selected the Option F technologies as the bases for NSPS (see Section VIII.D). EPA's record demonstrates that the technologies described in Option F are available and demonstrated, and Option F does not pose a barrier to entry and has acceptable non-water quality environmental impacts, including energy requirements (see Sections IX and XII). EPA rejected other options for PSNS for the same reasons that the Agency rejected other options for NSPS. And, as with the final PSES, EPA determined that the final PSNS prevent pass through of pollutants from POTWs into receiving streams and also help control contamination of POTW sludge.

G. Anti-Circumvention Provision

The final rule establishes one of the three anti-circumvention provisions that EPA proposed. The one anti-circumvention provision that EPA decided to establish applies only for existing sources to those wastestreams for which this rule established zero discharge limitations or standards. In general, this provision prevents steam electric power plants from circumventing the final rule by moving effluent produced by a process operation for which there is an applicable zero discharge effluent limitation or standard to another plant process operation for discharge.[38] EPA determined it was appropriate to include this provision in the final rule to make clear that, just because a wastestream that is subject to a zero discharge limitation or standard is moved to another plant process, it does not mean that the wastestream ceases being subject to the applicable zero discharge limitation or standard. For example, using fly ash or bottom ash transport water as makeup water for a cooling tower does not relieve a plant of having to meet the zero discharge limitations and standards for fly ash and bottom ash transport water. EPA encourages the reuse of wastewater where appropriate, but not to the extent that it undermines the zero discharge effluent limitations and standards in this rule. Plants are free to reuse their wastewater, so long as the wastewater ultimately complies with the final limitations and standards.

Some public commenters stated that zero discharge effluent limitations and standards for fly ash and bottom ash transport water, together with this anti-circumvention provision, would prohibit water reuse and prevent water withdrawal reduction at steam electric power plants. In general, EPA disagrees with these commenters. Most plants will choose to comply with the requirements for ash transport water by operating either a dry or closed-loop wet-sluicing system to handle their fly and bottom ash, which will eliminate or substantially reduce the amount of water they currently use in the traditional wet-sluicing system. To the extent that a plant currently uses (or was considering using) ash transport water, such as the effluent from an impoundment, as makeup water for processes such as make-up cooling water and would be precluded from doing so because of the anti-circumvention provision in this rule, the plant could merely switch to an alternate source for the makeup water, such as the water that was (prior to implementing the zero discharge requirement for ash transport water) used to sluice fly ash or bottom ash to the impoundment. In other words, the volume of water that is currently used to sluice ash to an impoundment and

[37] Whereas the final rule establishes BAT limitations on TSS in fly ash and bottom ash transport water, FGMC wastewater, FGD wastewater, and gasification wastewater for small generating units and oil-fired generating units, TSS and the pollutants that they represent do not pass through POTWs.

[38] The anti-circumvention provision applies only to limitations and standards established in this final rule. It does not apply to limitations and standards promulgated previously.

subsequently reused as makeup water would no longer be needed to sluice the ash and could instead be directly used as makeup water for the cooling water system or other processes. Because of this, the zero discharge limitations in this rule will not lead to a net increase at the plant and in fact could result in a decrease in water withdrawal. Lastly, a plant is free to reuse ash transport water, and would be in compliance with the anti-circumvention provision, so long as it is used in a process that does not ultimately result in a discharge.

There is one particular type of plant practice that the final rule's anti-circumvention provision does not apply to. Many industry commenters noted that they use ash transport water in their FGD scrubber. They stated that this practice is preferable to using a fresh water source and allows for an overall reduction in source water withdrawals. They further stated that, under the final rule, any wastewater that passes through the scrubber would undergo significant treatment in order to meet the final FGD wastewater limitations and standards. EPA agrees, in part, with these comments. As explained above, EPA does not agree that using wastewater from one industrial process as makeup water in another industrial process necessarily results in a net reduction in water withdrawals. EPA does agree, however, that using wastewater from an industrial process as makeup water in another industrial process may be preferable to using a fresh water source. EPA is mindful of the CWA's pollutant discharge elimination goal, but also wants to promote opportunities for water reuse. Furthermore, as explained in Section V, EPA recognizes the extensive changes in this industry, and it wants to provide flexibility to plants in managing their wastewater and operations, as well as preserve the ability of plants to retain existing approaches where it is consistent with the CWA's goals. While EPA would not choose to promote these considerations where it resulted in no further progress toward the pollutant discharge elimination goal of the Act, in the case of using ash transport water in an FGD scrubber, since any resulting wastewater discharges would still be required to meet BAT or PSES requirements based on either chemical precipitation plus biological treatment or chemical precipitation plus evaporation under this final rule, EPA decided not to apply the anti-circumvention provision to this particular practice.

The final rule does not establish an anti-circumvention provision that would have required internal monitoring to demonstrate compliance with certain numeric limitations and standards. Some public commenters argued that the proposed provision was unduly restrictive, and they stated that EPA already has authority to accomplish the goal of this particular provision, which is to ensure that wastestreams are being treated rather than simply diluted. EPA agrees with these commenters and thus decided that existing rules, along with the guidance in Section XVI.A.4 of this preamble and TDD Section 14, provide appropriate flexibility to steam electric power plants to combine wastestreams with similar pollutants and treatability, while adequately addressing EPA's concern that plants meet the effluent limitations and standards in this rule through treatment and control strategies, rather than through dilution. Furthermore, some commenters raised concerns that the proposed provision would be a disincentive for plants to internally re-use the treated wastewater within the plant, particularly when the re-use eliminates the discharge of the wastewater. For example, they stated that some steam electric power plants might opt to use a wet scrubber's FGD wastewater as reagent make-up for a new dry scrubber in an integrated design which would essentially evaporate the wet FGD wastewater. EPA notes that plants that internally reuse wastestreams for which EPA is establishing numeric limitations and standards (*e.g.,* FGD wastewater) in a way that completely prevents discharge of that wastestream would not be subject to the numeric limitations and standards because they do not discharge the wastewater. EPA is aware of at least one plant that elected to take such an approach as an alternative to meeting NPDES permit limitations by installing wastewater treatment technology. See DCN SE06338. In general, EPA supports such approaches because they result in further progress towards achieving the pollutant discharge elimination goal of the CWA. Moreover, such approaches are favored because they reduce overall water intake needs.

The final rule also does not establish an anti-circumvention provision that would have required permittees to use EPA-approved analytical methods that are sufficiently sensitive to provide reliable, quantified results at levels necessary to demonstrate compliance with the final effluent limitations and standards because another recently promulgated rule already accomplishes this. As public commenters pointed out, EPA was conducting a rulemaking on that topic; and, in August 2014, EPA published a rule requiring the use of sufficiently sensitive analytical test methods when completing any NPDES permit application. Moreover, the NPDES permit authority must prescribe that only sufficiently sensitive methods be used for analyses of pollutants or pollutant parameters under an NPDES permit where EPA has promulgated a CWA method for analysis of that pollutant. That rule clarifies that NPDES applicants and permittees must use EPA-approved analytical methods that are capable of detecting and measuring the pollutants at, or below, the applicable water quality criteria or permit limits.

H. Other Revisions

1. Correction of Typographical Error for PSNS

As EPA proposed to do, the final rule corrects a typographical error in the previously established PSNS for cooling tower blowdown. As is clear from the development document for the 1982 rulemaking, as well as the previously promulgated NSPS for cooling tower blowdown, EPA inadvertently omitted a footnote in the table that appeared in 40 CFR 423.17(d)(1). The footnote reads ''No detectable amount,'' and it applies to the effluent standard for 124 of the 126 priority pollutants contained in chemicals added for cooling tower maintenance. See ''Development Document for Final Effluent Guidelines, New Source Performance Standards and Pretreatment Standards for the Steam Electric Power Generating Point Source Category,'' Document No. EPA 440/1–82/029. November 1982.

2. Clarification of Applicability

In addition, the final rule contains three minor modifications to the wording of the applicability provision in the steam electric power generating ELGs to reflect EPA's longstanding interpretation and implementation of the rule. These revisions do not alter the universe of generating units regulated by the ELGs, nor do they impose compliance costs on the industry. Instead, they remove potential ambiguity in the regulations by revising the text to more clearly reflect EPA's longstanding interpretation.

First, the applicability provision in the previous ELGs stated, in part, that the ELGs apply to ''an establishment primarily engaged in the generation of electricity for distribution and sale. . . .'' 40 CFR 423.10. The final rule revises that phrase to read ''an establishment whose generation of electricity is the predominant source of revenue or principal reason for operation. . . .'' The final rule thus

clarifies that certain facilities, such as generating units owned and operated by industrial facilities in other sectors (*e.g.,* petroleum refineries, pulp and paper mills) that have not traditionally been regulated by the steam electric ELGs, are not within the scope of the ELGs. In addition, the final rule clarifies that certain municipally owned facilities that generate and distribute electricity within a service area (such as distributing electric power to municipal-owned buildings), but use accounting practices that are not commonly thought of as a ''sale,'' are subject to the ELGs. Such facilities have traditionally been regulated by the steam electric ELGs.

Second, the final rule clarifies that fuels derived from fossil fuel are within the scope of the ELGs. The previous ELGs stated, in part, that they apply to discharges resulting from the generation of electricity ''which results primarily from a process utilizing fossil-type fuels (coal, oil, or gas) or nuclear fuel. . . .'' 40 CFR 423.10. Because a number of fuel types are derived from fossil fuels, and thus are fossil fuels themselves, the final rule explicitly mentions and gives examples of such fuels. Thus, the rule reads that the ELGs apply to discharges resulting from the operation of a generating unit ''whose generation results primarily from a process utilizing fossil-type fuel (coal, oil, or gas), fuel derived from fossil fuel (*e.g.,* petroleum coke, synthesis gas), or nuclear fuel. . . .''

Third, the final rule clarifies the applicability provision to reflect the current interpretation that combined cycle systems are subject to the ELGs. The ELGs apply to electric generation processes that utilize ''a thermal cycle employing the steam water system as the thermodynamic medium.'' 40 CFR 423.10. EPA's longstanding interpretation is that the ELGs apply to discharges from all electric generation processes with at least one prime mover that utilizes steam (and that meet the other applicability factors in 40 CFR 423.10). Combined cycle systems, which are generating units composed of one or more combustion turbines operating in conjunction with one or more steam turbines, are subject to the ELGs. The combustion turbines for a combined cycle system operate in tandem with the steam turbines; therefore, the ELGs apply to wastewater discharges associated with both the combustion turbine and steam turbine portions of the combined cycle system. The final rule, therefore, clarifies that ''[t]his part applies to discharges associated with both the combustion turbine and steam turbine portions of a combined cycle generating unit.''

I. Non-Chemical Metal Cleaning Waste

EPA proposed to establish BAT/NSPS/PSES/PSNS requirements for non-chemical metal cleaning wastes equal to previously established BPT limitations for metal cleaning wastes.[39] EPA based the proposal on EPA's understanding, from industry survey responses, that most steam electric power plants manage their chemical and non-chemical metal cleaning wastes in the same manner. Since then, based in part on public comments submitted by industry groups, the Agency has learned that plants refer to the same operation using different terminology; some classify non-chemical metal cleaning waste as such, while others classify it as low volume waste sources. Because the survey responses reflect each plant's individual nomenclature, the survey results for non-chemical metal cleaning wastes are skewed. Furthermore, EPA does not know the nomenclature each plant used in responding to the survey, so it has no way to adjust the results to account for this. Consequently, EPA does not have sufficient information on the extent to which discharges of non-chemical metal cleaning wastes occur, or on the ways that industry manages their non-chemical metal cleaning wastes. Moreover, EPA also does not have information on potential best available technologies or best available demonstrated control technologies, or the potential costs to industry to comply with any new requirements. Due to incomplete data, some public commenters urged EPA not to establish BAT limitations for non-chemical metal cleaning wastes in this final rule. Ultimately, EPA decided that it does not have enough information on a national basis to establish BAT/NSPS/PSES/PSNS requirements for non-chemical metal cleaning wastes. The final rule, therefore, continues to ''reserve'' BAT/NSPS/PSES/PSNS for non-chemical metal cleaning wastes, as the previously promulgated regulations did.[40]

By reserving limitations and standards for non-chemical metal cleaning waste in the final rule, the permitting authority must establish such requirements based on BPJ for any steam electric power plant discharged non-chemical metal cleaning wastes. As part of this determination, EPA expects that the permitting authority would examine the historical permitting record for the particular plant to determine how discharges of non-chemical metal cleaning waste had been permitted in the past, including whether such discharges had been treated as low volume waste sources or metal cleaning waste. See Section XVI.

J. Best Management Practices

EPA proposed to include BMPs in the ELGs that would require plant operators to conduct periodic inspections of active and inactive surface impoundments to ensure their structural integrity and to take corrective actions where warranted. The proposed BMPs were largely similar to those proposed for the CCR rule, except for the closure requirements. EPA took comments on whether establishment of BMPs was more appropriate under the authority of the Resource Conservation and Recovery Act (RCRA) or the CWA. While some commenters asked EPA to establish BMPs in the final rule, many others urged EPA not to do so, arguing that BMPs are better suited for the CCR rule. Because EPA promulgated BMPs in the CCR rule, to avoid unnecessary duplication, this rule does not establish BMPs.

IX. Costs and Economic Impact

EPA evaluated the costs and associated impacts of the ELGs on existing generating units at steam electric power plants, and on new sources to which the ELGs may apply in the future. See TDD Section 9. This section provides an overview of the methodology EPA used to assess the costs and the economic impacts of the final ELGs and summarizes the results of these analyses. See the RIA for additional detail.

EPA used certain indicators to assess the economic achievability of the ELGs for the steam electric industry as a whole, as required by CWA section 301(b)(2)(A). These values were compared to a baseline described elsewhere in this document. For existing sources, EPA considered the number of generating units and plants expected to close due to the ELGs, and their generating capacity relative to total capacity (see Section IX.C.1.b). Although not used as the sole criterion to determine economic achievability, EPA also analyzed the ratio of compliance costs to revenue to estimate the number of plants and their owning

[39] Under the structure of the previously promulgated regulations, non-chemical metal cleaning wastes are a subset of metal cleaning wastes.

[40] As part of its proposal to establish new BAT/PSES/NSPS/PSNS requirements for non-chemical metal cleaning waste equal to BPT limitations for metal cleaning waste, EPA also proposed an exemption for certain discharges of non-chemical metal cleaning waste, which would be treated as low volume waste sources. Because the final rule does not establish these new requirements, EPA also did not finalize the proposed exemption.

entities that exceed set thresholds indicating potential financial strain; large numbers of such plants or owning entities could suggest that the ELGs may not be economically achievable by the industry (see Section IX.C.1.a). For new sources, EPA considered the magnitude of compliance costs relative to the costs of constructing and operating new coal-fired generating units (Section IX.C.2). In addition to the analyses used to determine economic achievability, EPA conducted other analyses to characterize the potential broader economic impacts of the ELGs (*e.g.,* on entities that own steam electric power plants, electricity rates, employment) and to enable the Agency to meet its requirements under Executive Orders or other statutes (*e.g.,* Executive Order 12866, Regulatory Flexibility Act, Unfunded Mandates Reform Act).

A. Plant-Specific and Industry Total Costs

EPA first estimated plant-specific costs to control discharges at existing generating units at steam electric power plants to which the final ELGs apply (existing sources). For all applicable wastestreams, EPA assessed the operations and treatment system components in place at a given unit in the baseline (or expected to be in place given other existing rules), identified equipment and process changes that the plant would likely make to meet the final ELGs, and estimated the cost to implement those changes. As explained in Section V, since proposal, EPA accounted for additional announced unit retirements, conversions, and relevant operational changes, as well as changes plants are likely to make in response to the CCR and CPP rules. As a result, the number of plants projected to incur non-zero compliance costs is about 50 percent less than that estimated at proposal. As appropriate, EPA also accounted for cost savings associated with these equipment and process changes (*e.g.,* avoided costs to manage surface impoundments). EPA thus derived capital and O&M costs at the plant level for control of each wastestream using the technologies that form the bases for the final rule for existing sources. See the TDD Section 9 for a more detailed description of the methodology EPA used to estimate plant-level costs.

EPA annualized one-time costs and costs recurring on other than an annual basis over a specific useful life, implementation, and/or event recurrence period, using a rate of seven percent. For capital costs and initial one-time costs, EPA used 20 years. For O&M costs incurred at intervals greater than one year, EPA used the interval as the annualization period (3 years, 5 years, 6 years, 10 years). EPA added annualized capital, initial one-time costs, and the non-annual portion of O&M costs to annual O&M costs to derive total annualized plant costs.

EPA calculated total industry costs by applying survey weights to the plant-specific annualized costs and summing them. For the assessment of industry costs, EPA considered costs on both a pre-tax and after-tax basis. Pre-tax annualized costs provide insight on the total expenditure as incurred, while after-tax annualized costs are a more meaningful measure of impact on privately owned for-profit plants, and incorporate approximate capital depreciation and other relevant tax treatments in the analysis. EPA uses pre- and/or after-tax costs in different analyses, depending on the concept appropriate to each analysis (*e.g.,* social costs discussed in Section IX.B are calculated using pre-tax costs whereas cost-to-revenue screening-level analyses discussed in Section IX.C are conducted using after-tax costs). See Table IX–1 for estimates of pre- and post-tax industry costs.

TABLE IX–1—TOTAL ANNUALIZED INDUSTRY COSTS

[In millions, 2013$], 7% Discount Rate

	Pre-tax	After-tax
Total Annualized Industry Costs	$496.2	$339.6

B. Social Costs

Social costs are the costs of the rule from the viewpoint of society as a whole, rather than regulated facilities only. In calculating social costs, EPA tabulated the pre-tax costs in the year when they are estimated to be incurred. EPA assumed that all plants upgrading their systems in order to meet the effluent limitations and standards would do so sometime over a five-year period, during the implementation period for this rule. Given the implementation dates in this rule, and the fact that permitting authorities have to incorporate the final effluent limitations into NPDES permits (which have five-year terms) before they become applicable, this assumption is a reasonable estimate.

EPA performed the social cost analysis over a 24-year analysis period, which combines the length of the period during which plants are anticipated to install the control technologies and the useful life of the longest-lived technology installed at any facility (20 years). EPA calculated social cost of the final rule for existing generating units at steam electric power plants using both a three percent discount rate and an alternative discount rate of seven percent.[41]

Social costs include costs incurred by both private entities and the government (*e.g.,* in implementing the regulation). As described in Section XVII.B, EPA estimates that the final rule will not lead to additional costs to permitting authorities. Consequently, the only category of costs necessary to calculate social costs are those estimated for steam electric power plants.

Table IX–2 presents the total annualized social cost of the final ELGs on existing generating units at seam electric power plants, calculated using three percent and seven percent discount rates.

[41] These discount rate values follow guidance from the Office of Management and Budget (OMB) regulatory analysis guidance document, Circular A–4 (OMB, 2003).

TABLE IX–2—TOTAL ANNUALIZED SOCIAL COSTS

[In millions, 2013$]

	3% Discount rate	7% Discount rate
Total Annualized Social Costs	$479.5	$471.2

The value presented in Table IX–2 for the seven percent discount rate is slightly lower than the comparable industry costs (pre-tax) in Table IX–1 (*e.g.,* $471.2 million versus $496.2 million) due to the inclusion of the timing of expenditures in the annualized social costs calculations.

C. Economic Impacts

EPA assessed the economic impacts of this rule in two ways: (1) A screening-level assessment of the cost impacts on existing generating units at steam electric power plants units and the entities that own those plants, based on comparison of costs to revenue; and (2) an assessment of the impact of this rule within the context of the broader electricity market, which includes an assessment of incremental plant closures attributable to this rule.

The following sections summarize the findings for these analyses. The RIA discusses the methods and results in greater detail.

1. Summary of Economic Impacts for Existing Sources

The first set of cost and economic impact analyses—including entity-level impacts at both the steam electric power plant and parent company levels—reflects baseline operating characteristics of steam electric power plants incurring costs and assumes no changes in those baseline operating characteristics (*e.g.,* level of electricity generation and revenue) as a result of the final rule. They provide screening-level indicators of the relative cost of the ELGs to plants, owning entities, or consumers.

The second set of analyses look at broader electricity market impacts taking into account the interconnection of regional and national electricity markets. It also looks at the distribution of impacts at the plant level. This second set of analyses provides insight on the impacts of the final rule on steam electric power plants, as well as the electricity market as a whole, including generation capacity closure and changes in generation and wholesale electricity prices.

As noted in the introduction to this section, EPA used results from the screening analysis of plant- and entity-level impacts, together with projected capacity closure from the market model, to determine that the final rule is economically achievable.

a. Screening-Level Assessment of Impacts on Existing Units at Steam Electric Power Plants and Parent Entities

EPA conducted a screening-level analysis of the rule's potential impact to existing generating units at steam electric power plants and parent entities based on cost-to-revenue ratios. For each of the two levels of analysis (plant and parent entity), the Agency assumed, for analytic convenience and as a worst-case scenario, that none of the costs would be passed on to consumers through electricity rate increases and would instead be absorbed by the steam electric power plants and their parent entities. This assumption overstates the impacts of the final rule since steam electric power plants that operate in a regulated market may be able to recover some of the increased production costs to consumers through increased electricity prices. It is, however, an appropriate assumption for a screening-level, upper-bound estimate of the potential cost impacts.

Plant-Level Cost-to-Revenue Analysis. EPA developed revenue estimates for this analysis using EIA data. EPA then calculated the annualized after-tax costs of the final rule as a percent of baseline annual revenues. See Chapter 4 of the RIA report for a more detailed discussion of the methodology used for the plant-level cost-to-revenue analysis.

Table IX–3 summarizes the plant-level cost-to-revenue analysis results for the final rule. The cost-to-revenue ratios provide screening-level indicators of potential economic impacts. Plants incurring costs below one percent of revenue are unlikely to face economic impacts, while plants with costs between one percent and three percent of revenue have a higher chance of facing economic impacts, and plants incurring costs above three percent of revenue have a still higher probability of economic impacts. EPA estimates that the vast majority of steam electric power plants (1,034 plants or 96 percent of the universe) to which the final rule apply will incur annualized costs amounting to less than one percent of revenue. In fact, most of these plants will incur no cost at all. Only four percent of plants have costs between one percent and three percent of revenue (38 plants), and less than one percent of plants have costs above three percent of revenue (8 plants). The small fractions of steam electric power plants with costs to revenue ratios exceeding the one percent and three percent thresholds suggest that the final limitations and standards are economically achievable for the industry as a whole.

TABLE IX–3—PLANT-LEVEL COST-TO-REVENUE ANALYSIS RESULTS [a]

Number and fraction of existing steam electric power plants with cost-to-revenue ratio of								
	0%		0–1%		1–3%		>3%	
	#	%	#	%	#	%	#	%
Count or Percent of Plants	946	88	88	8	38	4	8	1

[a] This analysis makes a counterfactual, conservative assumption of zero cost pass through. Plant counts are weighted estimates.

Parent Entity-Level Cost-to-Revenue Analysis. EPA also assessed the economic impact of the final rule at the parent entity level. The screening-level cost-to-revenue analysis at the parent entity level provides insight on the impact of the final rule on those entities that own existing generating units at steam electric power plants. In this analysis, the domestic parent entity associated with any given plant is

defined as that entity with the largest ownership share in the plant.

For each parent entity, EPA compared the total annualized after-tax costs and the total revenue for the entity (see Chapter 4 of the RIA report for details). EPA considered two approximate bounding cases to analyze costs and revenue for the owners of all existing units at steam electric power plants, based on the weights developed from the industry survey. These cases, which are described in more detail in Chapter 4 of the RIA, provide a range of estimates for the number of entities incurring costs and the costs incurred by any entity owning an existing generating unit at a steam electric power plant.

Table IX–4 summarizes the results of the entity-level analysis of the final rule for the two analytic cases.

TABLE IX–4—PARENT ENTITY-LEVEL AFTER-TAX ANNUAL COSTS AS A PERCENTAGE OF REVENUE [a]

Total number of entities	Not analyzed due to lack of revenue information		Number and percentage with after tax annual costs/annual revenue of:							
			0%		0–1%		1–3%		3% or greater	
	#	%	#	%	#	%	#	%	#	%
Case 1: Lower-bound estimate of number of entities owning steam electric power plants (which also provides an upper-bound estimate of total costs that an entity may incur)										
243	14	6	166	68	53	22	8	3	2	1
Case 2: Upper-bound estimate of number of entities owning steam electric power plants (which also provides a lower-bound estimate of total costs that an entity may incur)										
507	30	6	414	82	53	10	8	2	2	<1

equals the number of entities.
[a] This analysis makes a counterfactual, conservative assumption of zero cost pass-through.

Similar to the plant-level analysis above, cost-to-revenue ratios provide screening-level indicators of potential economic impacts, this time to the owning entities; higher ratios suggest a higher probability of economic impacts. As presented in Table IX–4, EPA estimated that the number of entities owning existing generating units at steam electric power plants ranges from 243 (lower-bound estimate) to 507 (upper-bound estimate), depending on the assumed ownership structure of plants not surveyed. EPA estimates that 90 percent to 92 percent of parent entities will either incur no costs or the annualized cost they incur to meet the final limitations and standards will represent less than one percent of their revenues, under the lower- and upper-bound cases, respectively.

Overall, this screening-level analysis shows that the entity-level costs are low in comparison to the entity-level revenues; very few entities are likely to face economic impacts at any level. This finding supports EPA's determination that the final rule is economically achievable by the steam electric power generation industry as a whole.

b. Assessment of Impacts in the Context of the Electricity Market

In analyzing the impacts of regulatory actions affecting the electric power sector, EPA has used IPM, a comprehensive electricity market optimization model that can evaluate such impacts within the context of regional and national electricity markets. The model is designed to evaluate the effects of changes in generating unit-level electric generation costs on the total cost of electricity supply, subject to specified demand and emissions constraints.

Use of a comprehensive, market analysis system is important in assessing the potential impact of the regulation because of the interdependence of electric generating units in supplying power to the electric transmission grid. Increases in electricity production costs at some generating units can have a range of broader market impacts affecting other generating units, including the likelihood that various units are dispatched, on average. The analysis also provides important insight on steam electric capacity closures (*e.g.,* retirements of generating units that become uneconomical relative to other generating units), based on a more detailed analysis of market factors than in the screening-level analyses above, and it further informs EPA's determination of whether the final ELGs are economically achievable by the industry as a whole.

EPA used version 5.13 of IPM to analyze the impacts of the final rule. IPM V5.13 is based on an inventory of U.S. utility- and non-utility-owned boilers and generators that provide power to the integrated electric transmission grid, including plants to which the ELGs apply. IPM V5.13 embeds a baseline energy demand forecast that is derived from DOE's ''Annual Energy Outlook 2013'' (AEO 2013). IPM V5.13 also incorporates in its analytic baseline the expected compliance response to existing regulatory requirements for air regulations affecting the power sector.[42] In addition, the Base Case for IPM analyses of the final ELGs accounts for the effects of the final CWIS rule and CCR rule, as well as the CPP rule.[43] As explained in Section V, because of the short time between finalizing the CPP rule and this final rule, EPA's IPM analysis for this final rule incorporates the proposed CPP rule in the baseline. EPA concludes the proposed and final CPP specifications are similar enough that using the proposed rather than the final CPP will not bias the results of the

[42] The Base Case includes the following regulations: Clean Air Interstate Rule (CAIR); Mercury and Air Toxics Standards (MATS) rule; regulatory SO_2 emission rates arising from State Implementation Plans (SIP); Acid Rain Program established under Title IV of the Clean Air Act Amendments; NO_X SIP Call trading program for Rhode Island; Clean Air Act Reasonable Available Control Technology requirements and Title IV unit specific rate limits for NO_X; the Regional Greenhouse Gas Initiative; Renewable Portfolio Standards; New Source Review Settlements; and several state-level regulations affecting emissions of SO_2, NO_X, and mercury that are already in place or expected to come into force by 2017.

[43] EPA typically includes only final rules in its base case for its IPM analyses. However, at the time EPA performed the IPM analyses for this rule, it did not have details of the final CPP rule. EPA therefore used information from the proposed CPP rule as a proxy for purposes of the ELG analyses.

analysis for this rule. This conclusion is based on a careful evaluation of whether the population of steam electricity generating units that would incur costs under the ELGs in the final CPP differs meaningfully from the proposed CPP baseline. The analyses led us to conclude that using the proposed CPP baseline in lieu of the final CPP baseline is acceptable because (1) the number of steam electric generating units that would incur costs under the ELGs is very similar on either baseline, and (2) where the populations differ, the net number of steam electric generating units that are in one baseline and not the other is small relative to the total population of steam electric generating units that would incur costs under the ELGs in either baseline. See the RIA for additional details.

In contrast to the screening-level analyses, which are static analyses and do not account for interdependence of electric generating units in supplying power to the electric transmission grid, IPM accounts for potential changes in the generation profile of steam electric and other units and consequent changes in market-level generation costs, as the electric power market responds to higher generation costs for steam electric units due to the ELGs. Additionally, in contrast to the screening-level analyses in which EPA assumed no cost pass through of the final rule costs, IPM depicts production activity in wholesale electricity markets where some recovery of compliance costs through increased electricity prices is possible but not guaranteed.

In analyzing the final ELGs, EPA specified additional fixed and variable costs that are expected to be incurred by specific steam electric power plants and generating units to comply with the ELGs (the costs discussed in Section IX.A). EPA then ran IPM including these additional costs to determine the dispatch of electric generating units that would meet projected demand at the lowest costs, subject to the same constraints as those present in the analysis baseline. The estimated changes in plant-specific and unit-specific production levels and costs—and, in turn, changes in total electric power sector costs and production profile—are key data elements in evaluating the expected national and regional effects of the ELGs, including closures of steam electric generating units.

EPA considered impact metrics of interest at three levels of aggregation: (1) Impact on national and regional electricity markets (all electric power generation, including steam and non-steam electric power plants), (2) impact on steam electric power plants as a group, and (3) impact on individual steam electric power plants incurring costs. Chapter 5 of the RIA discusses the first analysis. The sections below summarize the two analyses focusing on steam electric power plants, which are further described in Chapter 5 of the RIA.

All results presented below are representative of modeled market conditions in the years 2028–2033, by which time all plants will meet the effluent limitations and standards. Costs are reflective of costs in the modeled years.[44]

Impact on Existing Steam Electric Power Plants. EPA used IPM V5.13 results for 2030 to assess the potential impact of the final rule on existing generating units at steam electric power plants. The purpose of this analysis is to assess impacts on existing generating units at steam electric power plants specifically. EPA used this information in determining whether the ELGs are economically achievable by the steam electric power generating industry as a whole.

Table IX–5 reports results for existing generating units at steam electric power plants, as a group. EPA looked at the following metrics: (1) Incremental early retirements and capacity closures, calculated as the difference between capacity under the ELGs and capacity under the baseline, which includes both full plant closures and partial plant closures (unit closures) in aggregate capacity terms; (2) incremental capacity closures as a percentage of baseline capacity; (3) post-compliance change in electricity generation; (4) post-compliance changes in variable production costs per MWh, calculated as the sum of total fuel and variable O&M costs divided by net generation; and (5) changes in annual costs (fuel, variable O&M, fixed O&M, and capital). Items (1) and (2) provide important insight for determining the economic achievability of the ELGs.

TABLE IX–5—IMPACT OF FINAL ELGS ON STEAM ELECTRIC POWER PLANTS AS A GROUP AT THE YEAR 2030

Region	Baseline capacity (MW)	Incremental early retirements closures [a]		Change in total generation (GWh or % of baseline)		Change in variable production cost (2013$/MWh or % of baseline)		Change in annual costs (million 2013$ or % of baseline)	
		Capacity (MW)	% of baseline capacity						
Total U.S.	359,982	843	0.2%	−3,179	−0.2%	$0.10	0.3%	$496	0.6%

[a] Values for incremental early retirements or closures represent change relative to the baseline run. IPM may show partial (unit) or full plant early retirements (closures). It may also show avoided closures (negative closure values) in which a unit or plant that is projected to close in the baseline is estimated to continue operating in the post-compliance case. Avoided closures may occur among plants that incur no compliance costs or for which compliance costs are low relative to other steam electric power plants.

Under the final rule, variable production costs at steam electric power plants increase by approximately 0.3 percent at the national level. The resulting net change in total capacity for steam electric power plants is very small. For the group of steam electric power plants, total capacity decreases by 843 MW or approximately 0.2 percent of the 359,982 MW baseline capacity, corresponding to a net closure of two units, or when aggregating to the level of steam electric generating plants, one net plant closure.

The change in total generation is an indicator of how steam electric power plants fare, relative to the rest of the electricity market. While at the market level there is essentially no projected change in total electricity generation,[45]

[44] In contrast, the social costs estimated in Section IX.B reflect the discounted value of compliance costs over the entire 24-year period of analysis, as of 2015.

[45] As discussed in the RIA, at the national level, the demand for electricity does not change between

Continued

for steam electric power plants, total available capacity and electricity generation at the national level are projected to fall by approximately 0.2 percent.

These findings of very small national effects (and similarly very small regional effects, as described in Chapter 5 of the RIA) in these impact metrics support EPA's conclusion that the final rule will have little economic consequence for the steam electric power generating industry and the electricity market and is, therefore, economically achievable.

Impact on Individual Steam Electric Power Plants Incurring Costs under this Rulemaking. To assess potential plant-level effects, EPA also analyzed plant-specific changes between the base case and the post-compliance cases for the following metrics: (1) Capacity utilization (defined as annual generation (in MWh) divided by [capacity (MW) times 8,760 hours]) (2) electricity generation, and (3) variable production costs per MWh, defined as variable O&M cost plus fuel cost divided by net generation.

The analysis of changes in individual plants as a result of the final rule is detailed in Chapter 5 of the RIA. The results indicate that steam electric plants experience only slight effects—no change, or less than a one percent reduction or one percent increase. See Table 5–4 in the RIA. Only 17 plants see their capacity utilization reduced by more than one percent, while 25 plants increase their capacity utilization by more than one percent. The estimated change in variable production costs is higher; 43 plants have an increase in variable production costs exceeding one percent; for seven of these plants, this increase exceeds three percent, but again the vast majority of plants experience a less than one percent increase in variable production costs. Results for the subset of plants incurring costs further support the conclusion that the effects of the final rule on the steam electric industry will be small.

2. Summary of Economic Impacts for New Sources

EPA also evaluated the expected costs of meeting the final standards for new sources. The incremental cost associated with complying with the final NSPS and PSNS varies depending on the types of processes, wastestreams, and waste management systems that the plant would have installed in the absence of the new source requirements. EPA estimated capital and O&M costs for several scenarios that represent the different types of operations present at existing steam electric power plants or typically included at new steam electric power plants. These scenarios capture differences in the plant status (building a generating unit at a new location versus adding a new generating unit at an existing power plant), presence of on-site impoundments or landfills, type of ash handling, type of FGD systems in service, and type of leachate collection and handling.

EPA assessed the possible impact of this final rule on new units by comparing the incremental costs for new units to the overall cost of building and operating new scrubbed coal units, on an annualized basis.

EPA estimated costs of a new coal unit using the overnight [46] capital and O&M costs of building and operating a new scrubbed coal unit from the EIA's Annual Energy Outlook 2014. For purposes of this analysis, EPA assumed a new dual-unit plant with a total generation capacity of 1,300 MW. Table IX–6 shows capital and O&M costs of building and operating a new coal unit and contrasts these costs with the incremental costs associated with the final NSPS/PSNS.

TABLE IX–6—COMPARISON OF INCREMENTAL COMPLIANCE COSTS WITH COSTS FOR NEW COAL-FIRED STEAM ELECTRIC UNITS

Cost component	Costs of new coal generation ($2013/MW) [a]	Incremental compliance costs ($2013/MW) [b]	% of new generation cost
Capital	$3,058,861	$8,328–$87,085	0.3–2.8
Annual Non-Fuel O&M	69,630	620–8,828	0.3–3.9
Annual Fuel [c]	157,737		
Total Annualized Costs	497,213	1,354–16,511	0.3–3.3

[a] Source: New unit total cost value from Table 8.2 EIA NEMS Electricity Market Module. AEO 2014 Documentation. Available at *http://www.eia.gov/forecasts/aeo/assumptions/pdf/electricity.pdf.* Capital costs are based on the total overnight costs for new scrubbed coal dual-unit plant, 1,300 MW capacity, coming online in 2017. EPA restated costs in 2013 dollars using the construction cost index. Total annual O&M costs assume 90% capacity utilization.

[b] Incremental costs for new 1300 MW unit for Option F. Range represents the costs for a new unit at a newly constructed plant (lower bound) and new unit at an existing plant, with evaporation technology (upper bound).

[c] Fuel costs estimated assuming heat rate of 8,800 Btu/kWh (AEO 2014) and coal price delivered to the power sector of 2.27 $/Mbtu (AEO 2015, projected costs in 2017 in 2013$).

The comparison suggests that costs associated with meeting the final NSPS/PSNS represent a relatively small fraction of overnight capital costs of a new unit (less than one percent) and a similarly small fraction of non-fuel O&M and fuel costs (less than one percent). On an annualized basis, costs for meeting standards specified in the final rule are 0.3 to 3.3 percent of annualized costs for new coal generating capacity. Based on this assessment, EPA concludes that the final rule does not present a barrier to entry.

X. Pollutant Reductions

EPA took a similar approach to the one described above for plant-specific costs in estimating pollutant reductions associated with the final rule. For each wastestream [47] and each POC, EPA first estimated—on an annual, per plant basis—plant-specific baseline pollutant

the baseline and the analyzed regulatory options (generation within the regions is allowed to vary) because meeting demand is an exogenous constraint imposed by the model.

[46] As defined by the EIA, ''overnight cost'' is an estimate of the cost at which a plant could be constructed assuming that the entire process from planning through completion could be accomplished in a single day. This concept is useful to avoid any impact of project delays and of financing issues and assumptions on estimated costs.

[47] EPA estimated pollutant reductions for wastestreams with numeric and zero pollutant discharge limitations and standards. The reductions reflect a reduction in the mass of pollutant discharged.

loadings taking into account components in place at the plant (or expected to be in place given other existing rules [48]) and, where appropriate, pollutant removals at the POTW, since these removals result in reduced discharges to receiving waters. EPA similarly estimated plant-specific post-compliance pollutant loadings using the mean concentrations associated with the final limitations and standards. In cases where a plant had already implemented approaches that would allow them to comply with the final rule, the baseline and post-compliance pollutant loadings are equivalent. EPA then calculated the pollutant reduction as the difference between the estimated baseline and post-compliance discharge loadings. For each wastestream, EPA then calculated total industry pollutant reductions by applying survey weights to the plant-specific pollutant reductions and summing them.

While plants are not required to implement the specific technologies that form the bases for the final limitations and standards, EPA calculated the pollutant loadings for plants that implement these technologies to estimate the pollutant reductions associated with the rule. See TDD Section 10 for a detailed discussion of EPA's pollutant loadings and reductions methodologies.

Table X–1 presents estimated industry-level pollutant reductions for the final rule.

TABLE X–1—TOTAL ANNUALIZED POLLUTANT LOADING REDUCTIONS

Analysis baseline	Pollutant reductions (pounds per year)		
	Conventional pollutants [a]	Priority pollutants	Nonconventional pollutants [b]
Final Rule	13,400,000	410,000	371,000,000

[a] The loadings reduction for conventional pollutants includes BOD and TSS.
[b] The loadings reduction for nonconventional pollutants excludes TDS and COD to avoid double counting removals for certain pollutants that would also be measured by these bulk parameters (*e.g.,* sodium, magnesium).

XI. Development of Effluent Limitations and Standards

The final rule establishes a zero discharge limitation and standard applicable to all pollutants in fly ash transport water, bottom ash transport water, and FGMC wastewater; therefore, no effluent concentration data were used to set the limitations and standards for these wastestreams. The final rule contains new numeric effluent limitations and standards that apply to discharges of FGD wastewater and gasification wastewater at new and existing sources, and to discharges of combustion residual leachate at new sources.[49]

EPA developed the new numeric effluent limitations and standards in this final rule using long-term average effluent values and variability factors that account for variation in performance at well-operated facilities that employ the technologies that constitute the bases for control. EPA's methodology for derivation of limitations in ELGs is longstanding and has been upheld in court. *See, e.g., Chem. Mfrs. Ass'n* v. *EPA,* 870 F.2d 177 (5th Cir. 1989); *Nat'l Wildlife Fed'n* v. *EPA,* 286 F.3d 554 (D.C. Cir. 2002). EPA establishes the final effluent limitations and standards as ''daily maximums'' and ''maximums for monthly averages.'' Definitions provided in 40 CFR 122.2 state that the daily maximum limitation is the ''highest allowable 'daily discharge' '' and the maximum for monthly average limitation is the ''highest allowable average of 'daily discharges' over a calendar month, calculated as the sum of all 'daily discharges' measured during a calendar month divided by the number of 'daily discharges' measured during that month.'' Daily discharges are defined to be the '' 'discharge of a pollutant' measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.''

EPA's objective in establishing daily maximum limitations is to restrict the discharges on a daily basis at a level that is achievable for a plant that targets its treatment at the long-term average. EPA acknowledges that variability around the long-term average occurs during normal operations. This variability means that plants occasionally may discharge at a level that is higher (or lower) than the long-term average. To allow for these possibly higher daily discharges and provide an upper bound for the allowable concentration of pollutants that may be discharged, while still targeting achievement of the long-term average, EPA has established the daily maximum limitation. A plant that consistently discharges at a level near the daily maximum limitation would *not* be operating its treatment to achieve the long-term average. Targeting treatment to achieve the daily limitation, rather than the long-term average, may result in values that frequently exceed the limitations due to routine variability in treated effluent.

EPA's objective in establishing monthly average limitations is to provide an additional restriction to help ensure that plants target their average discharges to achieve the long-term average. The monthly average limitation requires dischargers to provide ongoing control, on a monthly basis, that supplements controls imposed by the daily maximum limitation. In order to meet the monthly average limitation, a plant must counterbalance a value near the daily maximum limitation with one or more values well below the daily maximum limitation.

The TDD provides a detailed description of the data and methodology used to develop long-term averages, variability factors, and limitations and standards for the final rule. As a result of public comments, EPA expanded the data set used to calculate the BAT/PSES effluent limitations and standards for discharges of FGD wastewater from existing sources. Largely, this expanded data set includes additional self-monitoring data from plants operating

[48] As explained elsewhere in this preamble, for this final rule, EPA adjusted its estimates to, among other things, account for known generating unit closures and conversions and known operating changes, including those associated with the CCR rule, expected to occur prior to the time in which the limitations and standards in this rule would apply. As such, baseline loadings in this final rule reflect closures, conversions, and operational changes that will take place prior to implementation of the rule in NPDES permits, rather than the industry survey baseline year of 2009 used in the proposed rule.

[49] Effluent limitations and standards based on the previously established BPT limitations on TSS are not discussed in this section.

the selected technology basis. EPA also expanded the data set by including treatment performance data from another plant that, upon review of comments, EPA determined would be appropriate to use to calculate the effluent limitations in this rule. The combination of EPA sampling data (both EPA-collected and CWA section 308 samples collected by plants for analysis by EPA) and plant self-monitoring data results in data sets characterizing the treatment system performance over several years at each of the plants used to develop effluent limitations and standards for FGD wastewater.

EPA identified certain data that warranted exclusion from the calculations of the limitations and standards because: (1) The samples were analyzed using an analytical method that is not approved in 40 CFR part 136 for NPDES permit purposes; (2) the samples were analyzed using an insufficiently sensitive analytical method (*e.g.,* use of EPA Method 245.1 to measure the concentration of mercury in effluent samples); (3) the samples were analyzed in a manner which resulted in an unacceptable level of analytical interferences; (4) the samples were collected during the initial commissioning period for the wastewater treatment system or the plant decommissioning period and do not represent BAT/NSPS level of performance; (5) the analytical results were identified as questionable due to quality control issues, abnormal conditions or treatment system upsets, or were analytical anomalies; (6) the samples were collected from a location that is not representative of treated effluent; or (7) the treatment system was operating in a manner that does not represent BAT/NSPS level of performance. The results of EPA's evaluation of the data and reasons for any data exclusions are summarized in DCN SE05733.

Tables XI–1 and XI–2 present the effluent limitations and standards for FGD wastewater, gasification wastewater, and combustion residual leachate. For comparison, the tables also present the long-term average treatment performance calculated for these wastestreams. Due to routine variability in treated effluent, a power plant that targets discharging its wastewater at a level near the values of the daily maximum limitation or the monthly average limitation may experience frequent values exceeding the limitations. For this reason, EPA recommends that plants design and operate the treatment system to achieve the long-term average for the model technology. In doing so, a system that is designed to represent the BAT/NSPS level of control would be expected to meet the limitations.

EPA expects that plants will be able to meet their effluent limitations or standards at all times. If an exceedance is caused by an upset condition, the plant would have an affirmative defense to an enforcement action if the requirements of 40 CFR 122.41(n) are met. Exceedances caused by a design or operational deficiency, however, are indications that the plant's performance does not represent the appropriate level of control. For these final limitations and standards, EPA determined that such exceedances can be controlled by diligent process and wastewater treatment system operational practices, such as regular monitoring of influent and effluent wastewater characteristics and adjusting dosage rates for chemical additives to target effluent performance for regulated pollutants at the long-term average concentration for the BAT/NSPS technology. Additionally, some plants may need to upgrade or replace existing treatment systems to ensure that the treatment system is designed to achieve performance that targets the effluent concentrations at the long-term average. This is consistent with EPA's costing approach and its engineering judgment developed over years of evaluating wastewater treatment processes for steam electric power plants and other industrial sectors. EPA recognizes that, as a result of the final rule, some dischargers, including those that are operating technologies representing the technology bases for the final rule, may need to improve their treatment systems, process controls, and/or treatment system operations in order to consistently meet the effluent limitations and standards. This is consistent with the CWA, which requires that discharge limitations and standards reflect the best available technology economically achievable or the best available demonstrated control technology.

See DCN SE05733 for details of the calculation of the limitations and standards presented in the tables below.

TABLE XI–1—LONG-TERM AVERAGES AND EFFLUENT LIMITATIONS AND STANDARDS FOR FGD WASTEWATER AND GASIFICATION WASTEWATER FOR EXISTING SOURCES

Wastestream	Pollutant	Long-term average	Daily maximum limitation	Monthly average limitation
FGD Wastewater (BAT & PSES)	Arsenic (µg/L)	5.98	11	8
	Mercury (ng/L)	159	788	356
	Nitrate/nitrite as N (mg/L)	1.3	17.0	4.4
	Selenium (µg/L)	7.5	23	12
Voluntary Incentives Program for FGD Wastewater (BAT only).	Arsenic (µg/L)	[a] 4.0	[b] 4	[c]
	Mercury (ng/L)	17.8	39	24
	Selenium (µg/L)	[a] 5.0	[b] 5	[c]
	TDS (mg/L)	14.9	50	24
Gasification Wastewater (BAT & PSES)	Arsenic (µg/L)	[a] 4.0	[b] 4	[c]
	Mercury (ng/L)	1.08	1.8	1.3
	Selenium (µg/L)	147	453	227
	TDS (mg/L)	15.2	38	22

[a] Long-term average is the arithmetic mean of the quantitation limits since all observations were not detected.
[b] Limitation is set equal to the quantitation limit.
[c] Monthly average limitation is not established when the daily maximum limitation is based on the quantitation limit.

TABLE XI–2—LONG-TERM AVERAGES AND STANDARDS FOR FGD WASTEWATER, GASIFICATION WASTEWATER, AND COMBUSTION RESIDUAL LEACHATE FOR NEW SOURCES

Wastestream	Pollutant	Long-term average	Daily maximum limitation	Monthly average limitation
FGD Wastewater (NSPS & PSNS)	Arsenic (μg/L)	[a] 4.0	[b] 4	[c]
	Mercury (ng/L)	17.8	39	24
	Selenium (μg/L)	[a] 5.0	[b] 5	[c]
	TDS (mg/L)	14.9	50	24
Gasification Wastewater (NSPS & PSNS)	Arsenic (μg/L)	[a] 4.0	[b] 4	[c]
	Mercury (ng/L)	1.08	1.8	1.3
	Selenium (μg/L)	147	453	227
	TDS (mg/L)	15.2	38	22
Combustion Residual Leachate (NSPS & PSNS)	Arsenic (μg/L) [d]	5.98	11	8
	Mercury (ng/L) [d]	159	788	356

[a] Long-term average is the arithmetic mean of the quantitation limits since all observations were not detected.
[b] Limitation is set equal to the quantitation limit.
[c] Monthly average limitation is not established when the daily maximum limitation is based on the quantitation limit.
[d] Long-term average and standards were transferred from performance of chemical precipitation in treating FGD wastewater.

XII. Non-Water Quality Environmental Impacts

The elimination or reduction of one form of pollution can create or aggravate other environmental problems. Therefore, CWA sections 304(b) and 306 require EPA to consider non-water quality environmental impacts (including energy requirements) associated with ELGs. Accordingly, EPA considered the potential impact of this rule on energy consumption, air emissions, and solid waste generation.[50] In addition, EPA evaluated the effects associated with water withdrawal. For information on the methodologies EPA used to estimate the non-water quality environmental impacts, see TDD Section 12.

Table XII–1 presents the net increases in energy requirements for the final rule. EPA estimates that energy increases associated with this rule are less than 0.01 percent of the total electricity generated by all electric power plants and the fuel consumption increase is 0.002 percent of total fuel consumption by all motor vehicles in the U.S.

TABLE XII–1—INDUSTRY-LEVEL ENERGY REQUIREMENTS FOR THE FINAL RULE

Non-water quality environmental impact	Final rule
Electrical Energy Usage (MWh)	237,000
Fuel (GPY)	556,000

Table XII–2 presents the estimated net change in air emissions for the final rule. Table XII–2 shows that the estimated air emission increases are less than 0.04 percent of the total air emissions generated in 2009 by the electric power industry for the three pollutants evaluated.

TABLE XII–2—AIR EMISSIONS ASSOCIATED WITH BAT/PSES FOR FINAL RULE

Non-water quality environmental impact	2009 emissions by electric power industry (million tons)	Change in air emissions associated with final rule (million tons)	Increase in emissions for final rule (%)
NO_X	1	−0.0114	−1.16
SO_X	6	0.00243	0.0406
CO_2	2,403	−2.58	−0.107

EPA compared the estimated increase in solid waste generation to the amount of solids generated in a year by electric power plants throughout the U.S.—approximately 134 billion tons. The increase in solid waste generation associated with the final rule is less than 0.001 percent of the total solid waste generated by all electric power plants.

EPA estimates that, under the final rule, steam electric power plants will reduce their water withdrawal by 57 billion gallons per year (155 million gallons per day). See TDD Section 12.

Based on these analyses, EPA determined that the final BAT effluent limitations and PSES have acceptable non-water quality environmental impacts, including energy impacts.

XIII. Environmental Assessment

A. Introduction

Although not required to do so, EPA conducted an environmental assessment for the final rule, as it did for the proposed rule. The environmental assessment for the final rule reviewed currently available literature on the documented environmental and human health impacts of steam electric power plant wastewater discharges and

[50] Because EPA does not project any new coal or oil-fired generating units, the results presented in this section reflect existing generating units. Because EPA expects non-water quality environmental impacts for new generating units to be similar to or the same as existing generating units, EPA determined that in the event a new generating unit is built, the non-water quality environmental impacts associated with NSPS/PSNS would be acceptable. For EPA's analysis of non-water quality impacts for existing generating units for Option F, see Section 12 of the TDD.

conducted modeling to determine the cumulative impacts of pollution from the universe of steam electric power plants to which the final rule applies. EPA modeled both the impacts of steam electric power plant discharges at baseline conditions (pre-rule conditions) and the improvements that will likely result after implementation of the rule.

EPA's review of the scientific literature; documented cases of the extensive impacts of steam electric power plant wastewater discharges on human health and the environment; and a full description of EPA's modeling methodology and results are provided in the EA.

B. Summary of Human Health and Environmental Impacts

As discussed in the environmental assessment and proposed rule, current scientific literature indicates that steam electric power plant wastewaters such as fly ash transport water, bottom ash transport water, FGD wastewater, and combustion residual leachate contain large amounts of a wide range of harmful pollutants, some of which are toxic and bioaccumulative, and which cause significant, widespread detrimental environmental and human health impacts.

Discharges of steam electric power plant wastewaters present a serious public health concern due to the potential human exposure to toxic pollutants through consumption of contaminated fish and drinking water. Toxic pollutants that detrimentally affect human health that are commonly found in steam electric power plant wastewater discharges include mercury, lead, arsenic, cadmium, thallium, and selenium, along with numerous others (see EA Section 3). These pollutants are associated with a variety of documented adverse human health impacts. For example, human exposure to elevated levels of mercury for relatively short periods of time can result in kidney and brain damage. Pregnant women who are exposed to mercury can pass the contaminant to their developing fetus, leading to possible toxic injury of the fetal brain and damage to other parts of the nervous system. Human exposure to elevated levels of lead can cause serious damage to the brain, kidneys, nervous system, and red blood cells, especially in children. Arsenic is associated with an increased risk of liver and bladder cancer in humans, as well as non-cancer impacts including dermal, cardiovascular, respiratory, and reproductive effects such as excess incidences of miscarriages, stillbirths, preterm births, and low birth weights. Chronic exposure to cadmium, a probable carcinogen, can lead to kidney failure, lung damage, and weakened bones. Human exposure to elevated levels of thallium can lead to neurological symptoms, hair loss, gastrointestinal effects, liver and kidney damage, and reproductive and developmental damage. Long-term exposure to selenium can damage the kidney, liver, and nervous and circulatory systems.

The pollutants in steam electric power plant wastewater can bioaccumulate within fish and other aquatic wildlife in the receiving waters and subsequently be transferred to recreational and subsistence fishers who consume these contaminated fish, potentially resulting in the acute and chronic health impacts described above. Certain populations are particularly at risk, including women who are pregnant, nursing, or may become pregnant, and communities relying on consumption of fish from contaminated waters as a major food source.

Discharges of steam electric power plant pollutants to surface waters also have the potential to contaminate drinking water sources, causing potential problems for drinking water systems and, if left untreated, potential adverse health effects. A recent study indicates that pollutants in ash and FGD wastewater discharges exceeded MCLs in every surface water that was monitored in North Carolina during the study (see DCN SE01984). Nitrogen discharges from steam electric power plants can contribute, along with other sources, to harmful algal blooms. Harmful algal blooms can affect drinking water sources, such as the recent incident in Toledo, Ohio (see DCN SE04517).

Bromide discharges from steam electric power plants can contribute to the formation of carcinogenic DBPs in public drinking water systems. A recent study identified four drinking water treatment plants that experienced increased levels of bromide in their source water, and in some, a corresponding increase in the formation of brominated DBPs in the drinking water system, after the installation of wet FGD scrubbers at upstream steam electric power plants (see DCN SE04503).

Although not directly addressed by this final rule, ground water contamination from surface impoundments containing steam electric power plant wastewater also threatens drinking water sources. EPA identified more than 30 documented cases where ground water contamination from surface impoundments extended beyond the plant boundaries, illustrating the threat to ground water drinking water sources (see DCN SE04518). Where this final rule helps to reduce or eliminate the continued disposal or storage of steam electric power plant wastewater pollutants in unlined or leaking surface impoundments, potential impacts to ground water will also be reduced or eliminated.

The ecological impacts of steam electric power plant wastewater pollutants include both acute (*e.g.,* fish kills) and chronic effects (*e.g.,* reproductive failure, malformations, and metabolic, hormonal, and behavioral disorders) upon biota within the receiving water and the surrounding environment. Recovery of aquatic environments from exposure to these steam electric power plant pollutants can be extremely slow due to the accumulation and continued cycling of the pollutants within ecosystems, resulting in the potential to alter ecological processes such as population diversity and community dynamics. Furthermore, many steam electric power plants discharge pollutants to sensitive environments such as the Great Lakes, valuable estuaries such as the Chesapeake Bay, 303(d) listed impaired waters, and waters with fish consumption advisories. EPA identified 69 steam electric power plants with documented adverse environmental impacts on surface waters (see DCN SE04518).

C. Environmental Assessment Methodology

As discussed in Section V.G, EPA updated the environmental assessment for the final rule to respond to public comments and to better characterize the environmental and human health improvements associated with the final rule. Although not required to do so, EPA conducted an environmental assessment for the final rule. The environmental assessment reviewed currently available literature on the documented environmental and human health impacts of steam electric power plant wastewater discharges and conducted modeling to determine the cumulative impacts of pollution from the universe of steam electric power plants to which the final rule applies. EPA modeled both of the impacts of steam electric power plant discharges at baseline conditions and the improvements that will likely result after implementation of this rule. The final environmental assessment also incorporates changes to the industry profile to account for retirements, conversions, and operational changes

that EPA anticipates, given other existing rules, primarily the CCR and CPP rules.

The environmental assessment modeling for the final rule consisted of (1) a steady-state, national-scale immediate receiving water (IRW) model that evaluated the discharges from steam electric power plants and focused on impacts within the immediate surface water where the discharges occur (approximately one to 10 kilometers [km] from the outfall),[51] and (2) dynamic case study models with more extensive, site-specific modeling of selected waterbodies that receive, or are downstream from, steam electric power plant discharges. EPA also modeled receiving water concentrations downstream from steam electric power plant discharges using EPA's Risk-Screening Environmental Indicators (RSEI) model, and improved its modeling of selenium bioaccumulation in fish and wildlife.

Additionally, for the final rule, EPA updated and improved several input parameters for the IRW model, including fish consumption rates for recreational and subsistence fishers, the bioconcentration factor for copper, and benchmarks for assessing the potential for impacts to benthic communities in receiving waters.

The case-study modeling for the final rule is based on EPA's Water Quality Analysis Simulation Program (WASP), which accounts for fluctuations in receiving water flow rates by using daily stream flow monitoring data instead of one annual average flow rate for the receiving water, as used in the IRW. The case-study modeling accounts for pollutant transport and accumulation within receiving water reaches that are downstream from the discharge location, allowing for an assessment of environmental impacts over a larger portion of the receiving waterbody. The case study modeling also accounts for pollutant contributions from other point, nonpoint, and background sources, to the extent practical, using available data sources. EPA used the water quality results of the case-study modeling to supplement the results of the IRW model (see EA Section 8).

EPA improved its selenium bioaccumulation modeling for impacts on wildlife by developing and using an ecological risk model that predicts the risk of reproductive impacts among fish and waterfowl exposed to selenium from steam electric power plant wastewater discharges. The ecological risk model accounts for the bioaccumulation of selenium in aquatic organisms through dietary exposure (the food web), as contrasted with exposure only to dissolved selenium in the water column. Dietary exposure plays a more significant role in determining the extent of selenium bioaccumulation in aquatic organisms. The ecological risk model also accounts for the higher rates of selenium bioaccumulation that can occur in slow-flowing aquatic systems such as lakes and reservoirs, and the risk model translates selenium tissue concentrations into the predicted risk of adverse reproductive effects (*e.g.,* reduced egg hatchability, larval mortality, and deformities that affect survival) among exposed fish and waterfowl. EPA applied the ecological risk model to the water quality outputs from both the national-scale IRW model and the case-study models. See EA Section 5.2 for a more detailed discussion.

D. Outputs From the Environmental Assessment

EPA focused its quantitative analyses on the environmental and human health impacts associated with exposure to toxic bioaccumulative pollutants via the surface water pathway. EPA focused the modeling on discharges of toxic bioaccumulative pollutants from a subset of evaluated wastestreams from steam electric power plants (fly ash and bottom ash transport water, FGD wastewater, and combustion residual leachate) into rivers/streams and lakes/ponds (including reservoirs).[52] EPA addressed environmental impacts from nutrients in a separate analysis discussed in Section XIII.D.5.

The environmental assessment concentrates on impacts to aquatic life based on changes in surface water quality; impacts to aquatic life based on changes in sediment quality within surface waters; impacts to wildlife from consumption of contaminated aquatic organisms; and impacts to human health from consumption of contaminated fish and water. Table XIII–1 presents a list of the key environmental improvements projected within the immediate receiving waters due to the pollutant loading reductions under the final rule. These improvements are discussed in detail, with quantified results, in the EA.

TABLE XIII–1—KEY ENVIRONMENTAL IMPROVEMENTS WITHIN MODELED IMMEDIATE RECEIVING WATERS UNDER THE FINAL RULE[53]

Criteria evaluated for exceedances	Will improve under the final rule?
Freshwater Acute National Recommended WQC.	YES
Freshwater Chronic National Recommended WQC.	YES
Human Health Water and Organism National Recommended WQC.	YES
Human Health Organism Only National Recommended WQC.	YES
Drinking Water MCL	YES
Fish Ingestion NEHC for Mink.	YES
Fish Ingestion NEHC for Eagles.	YES
Adverse Reproductive Effects in Fish due to Selenium.	YES
Adverse Reproductive Effects in Mallards due to Selenium.	YES
Non-Cancer Reference Dose for Child (Recreational and Subsistence fishers).	YES
Non-Cancer Reference Dose for Adult (Recreational and Subsistence fishers).	YES
Arsenic Cancer Risk for Child (Recreational and Subsistence fishers).	YES
Arsenic Cancer Risk for Adult (Recreational and Subsistence fishers).	YES

Acronyms: MCL (Maximum Contaminant Level); NEHC (No Effect Hazard Concentration); WQC (Water Quality Criteria).

[a] The IRW model encompasses a total of 163 immediate receiving waters (144 rivers and streams; 19 lakes, ponds, and reservoirs) and loadings from 143 steam electric power plants.

1. Improvements in Surface Water and Ground Water Quality

EPA estimates a significant number of environmental and ecological improvements and reduced impacts to wildlife and humans from reductions in pollutant loadings under the final rule. More specifically, the environmental assessment evaluated (a) improvements in water quality, (b) reduction in impacts to wildlife, (c) reduction in number of receiving waters with potential human health cancer risks, (d) reduction in number of receiving waters with potential to cause non-cancer human health effects, (e) reduction in nutrient impacts, (f) reduction in other environmental impacts, and (g) other unquantified environmental improvements.

[51] The IRW model used for the final rule is substantially similar to the one used for the proposed rule, but with certain updates, as further discussed in this section.

[52] EPA did not use the state 303d lists of impaired waters in order to ensure comprehensive coverage of all pollutants of concern.

[53] See the EA for the details and amounts of the projected improvements.

EPA expects significantly reduced contamination levels in surface waters and sediments under the final rule. EPA estimates that reduced pollutant loadings to surface waters will significantly improve water quality by reducing pollutant concentrations by an average of 56 percent within the immediate receiving waters of steam electric power plants where additional treatment technologies are installed as a result of this final rule. Based on the water quality component of the IRW model, which compares modeled receiving water concentrations to national recommended WQC and MCLs to assess changes in receiving water quality, the pollutants with the greatest number of water quality standard exceedances under baseline pollutant loadings include: Total arsenic, total thallium, total selenium, and dissolved cadmium. EPA estimates that almost half of the immediate receiving waters exceed a water quality standard under baseline loadings. EPA estimates that the number of immediate receiving waters with aquatic life exceedances, which are driven by high total selenium and dissolved cadmium concentrations, will be reduced under the final rule. EPA also estimates that the number of immediate receiving waters with human health water quality standards exceedances, primarily driven by high total arsenic and total thallium concentrations, will be reduced under the final rule.

Selenium is one of the primary pollutants documented in the literature as causing environmental impacts to fish and wildlife. EPA calculates that total selenium receiving water concentrations will be reduced by two-thirds under the final rule, leading to a reduction in the number of immediate receiving waters exceeding the freshwater chronic criteria for selenium.

While the case-study models and IRW model produced generally similar results for the five receiving waters included in both analyses, the case-study model reveals additional potential for baseline impacts to water quality, aquatic life, and human health that are not reflected in the IRW model. Case-study modeling also reveals that these potential impacts can extend beyond the immediate receiving water and into downstream waters, leading to the potential for more widespread environmental and human health effects than those shown with the IRW model. This is particularly true regarding water quality standard exceedances; in four of the five receiving waters included in both analyses, the case-study model indicates that the final rule will result in further reductions in water quality standard exceedances beyond those reflected in the IRW model.

As discussed in the EA, the RSEI modeling indicates that surface waters downstream from steam electric power plant wastewater discharges will also achieve water quality improvements under the final rule.

This final rule will also potentially help to both reduce ground water contamination and improve the availability of ground water resources by complementing the CCR rule. This rule provides strong incentives for plants to greatly reduce, if not entirely eliminate, disposal and treatment of steam electric power plant wastewater in unlined surface impoundments.

2. Reduced Impacts to Wildlife

EPA expects that once the rule is implemented the number of immediate receiving waterbodies with potential impacts to wildlife will begin to be reduced by more than a half compared to baseline conditions under the final rule.

EPA determined that steam electric power plant wastewater discharges into lakes pose the greatest risk to piscivorous (fish eating) wildlife, with almost a half of lakes exceeding a protective benchmark for minks or eagles under baseline pollutant loadings (compared to about a third of rivers). Mercury and selenium are the primary pollutants with the greatest number of receiving waters with benchmark exceedances. EPA estimates that this rule will reduce the number of immediate receiving waters exceeding the benchmark for minks and eagles by approximately half for mercury and selenium. Additionally, as discussed in the EA, the downstream RSEI modeling indicates that surface waters downstream from steam electric power plant wastewater discharges will also achieve improvements in these wildlife benchmarks under the final rule.

For the final rule, EPA also performed modeling to estimate the risk of adverse reproductive effects among fish (*e.g.,* reduced larvae survival) and waterfowl (*e.g.,* reduced egg hatchability) with dietary exposure to selenium from steam electric power plant wastewater. Based on the water quality output from the IRW model, EPA determined that approximately 15 percent of immediate receiving waters contain selenium concentrations that present at least a ten percent risk of adverse reproductive effects among fish or waterfowl that consume prey from those waterbodies. Under the final rule, EPA estimates that the count of immediate receiving waters presenting these reproductive risks will be reduced by more than half. This indicates that the final rule will reduce the long-term bioaccumulative impact of selenium (and possibly other bioaccumulative pollutants) throughout aquatic ecosystems.

In addition, EPA estimates that the improvements to water quality, discussed above, will improve aquatic and wildlife habitats in the immediate and downstream receiving waters from steam electric power plant discharges. EPA determined that these water quality and habitat improvements will enhance efforts to protect threatened and endangered species. EPA identified four species with a high vulnerability to changes in water quality whose recovery will be enhanced by the pollutant reductions associated with the final rule.

3. Reduced Human Health Cancer Risk

EPA estimates that reductions in arsenic loadings from the final rule will result in a reduction in potential cancer risks to humans that consume fish exposed to steam electric power plant discharges. In addition, based on the downstream RSEI modeling, EPA estimates that numerous river miles downstream from steam electric discharges contain fish contaminated with inorganic arsenic that present cancer risks to at least one of the evaluated cohorts. The final rule substantially reduces this number of miles.

4. Reduced Threat of Non-Cancer Human Health Effects

Exposure to toxic bioaccumulative pollutants poses risk of systemic and other effects to humans, including effects on the circulatory, respiratory, or digestive systems, and neurological and developmental effects. EPA estimates the final rule will significantly reduce the number of receiving waters with the potential to cause non-cancer health effects in humans who consume fish exposed to steam electric power plant pollutants.

Under baseline pollutant loadings, EPA determined that about half of immediate receiving waters present non-cancer health risks for one or more of the human cohorts due to elevated pollutant levels in fish. The final rule, once implemented, will begin to reduce this amount by approximately 50 percent for all the human cohorts that were evaluated. Non-cancer risks are caused primarily by mercury (as methylmercury), total thallium, and total selenium, and to a lesser degree, total cadmium pollutant loadings. Additionally, as discussed in the EA, the downstream RSEI modeling indicates that the final rule substantially

reduces the prevalence of downstream waters with contaminated fish that present non-cancer health risks to at least one of the human cohorts.

In addition to the assessment of non-cancer impacts described above, EPA also evaluated the adverse health effects to children who consume fish contaminated with lead from steam electric power plant wastewater. EPA estimates that the final rule will significantly reduce the associated IQ loss among children who live in recreational angler and subsistence fisher households. The final rule will also reduce the incidence of other health effects associated with lead exposure among children, including slowed or delayed growth, delinquent and anti-social behavior, metabolic effects, impaired heme synthesis, anemia, and impaired hearing. The final rule will also reduce IQ loss among children exposed in utero to mercury from maternal fish consumption. Section XIV.B.1 provides additional details on the benefits analysis of these reduced IQ losses.

The final rule will also result in additional non-cancer human health improvements beyond those discussed above, including reduced health hazards due to exposure to contaminants in waters that are used for recreational purposes (*e.g.,* swimming).

5. Reduced Nutrient Impacts

The primary concern with nutrients (nitrogen and phosphorus) in steam electric power plant discharges is the potential for contributing to adverse impacts in waterbodies that receive nutrient discharges from multiple sources. Excessive nutrient loadings to receiving waters can significantly affect the ecological stability of freshwater and saltwater aquatic ecosystems and pose health threats to humans from the generation of toxins by cyanobacteria, which can thrive in nitrogen driven algal blooms (DCN SE04505).

Nine percent of surface waters receiving steam electric power plant wastewater discharges are impaired for nutrients. Although the concentration of nitrogen present in steam electric power plant discharges from any individual power plant is relatively low, the total nitrogen loadings from a single plant can be significant due to large wastewater discharge flow rates.

EPA projects that the final rule will reduce total nutrient loadings by steam electric power plants in their immediately downstream receiving waters by more than 99 percent. Section XIV provides additional details on the water quality benefits analysis of nutrient reductions, as determined using the SPARROW (Spatially Referenced Regressions On Watershed attributes) model.

E. Unquantified Environmental and Human Health Improvements

The environmental assessment focused primarily on the quantification of environmental improvements within rivers and lakes from post-compliance pollutant reductions for toxic bioaccumulative pollutants and excessive nutrients. While extensive, the environmental improvements quantified do not encompass the full range of improvements anticipated to result from the final rule simply because some of the improvements have no method for measuring a quantifiable or monetizable improvement. EPA estimates post-compliance pollutant reductions from the final rule to result in much greater improvements than those quantified for wildlife, human health and the environment by:

- Reducing loadings of bioaccumulative pollutants to the broader ecosystem, resulting in the reduction of long-term exposures and sub-lethal ecological effects;
- Reducing sub-lethal chronic effects of toxic pollutants on aquatic life not captured by the national recommended WQC;
- Reducing loadings of pollutants for which EPA did not perform water quality modeling in support of the environmental assessment (*e.g.,* boron, manganese, aluminum, vanadium, and iron);
- Mitigating impacts to aquatic and aquatic-dependent wildlife population diversity and community structures;
- Reducing exposure of wildlife to pollutants through direct contact with combustion residual surface impoundments and constructed wetlands built as treatment systems at steam electric power plants; and
- Reducing the potential for the formation of harmful algal blooms.

Data and analytical limitations prevent modeling the scale and complexity of the ecosystem processes potentially impacted by steam electric power plant wastewater, resulting in the inability to quantify all potential improvements. However, documented site-specific impacts in the literature reinforce that these impacts are common in the environments surrounding steam electric power plants and fully support the conclusion that reducing pollutant loadings will further reduce risks to human health and wildlife and prevent damage to the environment.

Although the environmental assessment quantifies impacts to wildlife that consume fish contaminated with pollutants from steam electric power plant wastewater, it does not capture the full range of exposure pathways through which bioaccumulative pollutants can enter the surrounding food web. Wildlife can encounter toxic bioaccumulative pollutants from discharges of the evaluated wastestreams through a variety of exposure pathways such as direct exposure, drinking water, consumption of contaminated vegetation, and consumption of contaminated prey other than fish and invertebrates. Therefore, the quantified improvements underestimate the complete loadings of bioaccumulative pollutants that can impact wildlife in the ecosystem. The final rule will lower the total amount of toxic bioaccumulative pollutants entering the food web near steam electric power plants.

EPA also estimates that reductions in pollutant loadings will lower the occurrence of sub-lethal effects associated with many of the pollutants in steam electric power plant wastewater that are not captured by comparisons with national recommended WQC for aquatic life. Chronic effects such as decreased reproductive success, changes in metabolic rates, decreased growth rates, changes in morphology (*e.g.,* fin erosion, oral deformities), and changes in behavior (*e.g.,* swimming ability, ability to catch prey, ability to escape from predators) that can negatively affect long-term survival, are well documented in the literature as occurring in aquatic environments near steam electric power plants. Reductions in organism survival rates from chronic effects such as abnormalities can alter interspecies relationships (*e.g.,* declines in the abundance or quality of prey) and prolong ecosystem recovery. Additionally, EPA was unable to quantify changes to aquatic and wildlife population diversity and community dynamics; however, population effects (decline in number and type of organisms present) caused by exposure to steam electric power plant wastewater are well documented in the literature. Changes in aquatic populations can alter the structure and function of aquatic communities and cause cascading effects within the food web that result in long-term impacts to ecosystem dynamics. EPA estimates that post-compliance pollutant loading reductions associated with the final rule will lower the stressors that can cause alterations in population and community dynamics and improve the overall function of ecosystems

surrounding steam electric power plants, as well as help resolve issues faced in other national ecosystem protection programs such as the Great Lakes program, the National Estuaries program, and the 303(d) impaired waters program.

The post-compliance pollutant reductions associated with the final rule will also decrease the environmental impacts to wildlife exposed to pollutants through direct contact with surface impoundments and constructed wetlands at steam electric power plants. Documented site-specific impacts demonstrate that wildlife living in close proximity to combustion residual impoundments exhibit elevated levels of arsenic, cadmium, chromium, lead, mercury, selenium, and vanadium. Multiple studies have linked these ''attractive nuisance'' areas (contaminated impoundments at a steam electric power plant that attract wildlife for nesting or feeding) to diminished reproductive success. EPA estimates that the post-compliance pollutant reductions will decrease the exposure of wildlife populations to toxic pollutants and reduce the risks for impacts on reproductive success.

F. Other Improvements

Other improvements will occur to other resources that are associated directly or indirectly with the final rule. These include aesthetic and recreational improvements, reduced economic impacts such as clean up and treatment costs in response to contamination or impoundment failures, reduced injury associated with pond failures, reduced ground water contamination, support for threatened and endangered species, reduced water usage and reduced air emissions. Section XIV provides additional details on the monetized benefits of these improvements.

XIV. Benefits Analysis

This section summarizes EPA's estimates of the national environmental benefits expected to result from reduction in steam electric power plant wastewater discharges described in Section X and the resultant environmental effects summarized in Section XIII. The BCA Report provides additional details on benefits methodologies and analyses, including uncertainties and limitations. The analysis methodology is generally the same as that used by EPA for analysis of the proposed rule, but with revised inputs and assumptions that reflect updated data and address comments the Agency received on the proposed rule, including additional categories of benefits the Agency analyzed for the final rule.

A. Categories of Benefits Analyzed

Table XIV–1 summarizes benefit categories associated with the final rule and notes which categories EPA was able to quantify and monetize. Analyzed benefits fall within five broad categories: Human health benefits from surface water quality improvements, ecological conditions and recreational use benefits from surface water quality improvements, market and productivity benefits, air-related benefits (which include both human health and climate change-related effects), and water withdrawal benefits. Within these broad categories, EPA was able to assess benefits with varying degrees of completeness and rigor. Where possible, EPA quantified the expected effects and estimated monetary values. However, data limitations and gaps in the understanding of how society values certain water quality changes prevent EPA from quantifying and/or monetizing some benefit categories.

TABLE XIV–1—BENEFIT CATEGORIES ASSOCIATED WITH FINAL RULE

Benefit category	Quantified and monetized	Quantified but not monetized	Neither quantified nor monetized
1. Human Health Benefits from Surface Water Quality Improvements			
Reduced incidence of cancer from arsenic exposure via fish consumption	X		
Reduced incidence of cardiovascular disease from arsenic exposure via fish consumption		X	
Reduced incidence of cardiovascular disease from lead exposure via fish consumption	X[a]		
Reduced incidence of other cancer and non-cancer adverse health effects (*e.g.,* reproductive, immunological, neurological, circulatory, or respiratory toxicity) due to exposure to arsenic, lead, cadmium, and other toxics from fish consumption		X	
Reduced IQ loss in children from lead exposure via fish consumption	X		
Reduced need for specialized education for children from lead exposure via fish consumption	X		
Reduced in utero mercury exposure via maternal fish consumption	X		
Reduced health hazards from exposure to pollutants in waters used recreationally (*e.g.,* swimming)			X
2. Ecological Conditions and Recreational Use Benefits from Surface Water Quality Improvements			
Benefits from improvements in surface water quality, including: Improved aquatic and wildlife habitat; enhanced water-based recreation, including fishing, swimming, boating, and near-water activities; increased aesthetic benefits, such as enhancement of adjoining site amenities (*e.g.,* residing, working, traveling, and owning property near the water[b]; and non-use value (existence, option, and bequest value from improved ecosystem health)[b]	X		
Benefits from improved protection of threatened and endangered species	X		
Reduced sediment contamination			X
3. Market and Productivity Benefits			
Reduced impoundment failures (monetized benefits include avoided cleanup costs, transaction costs, and environmental damages; non-quantified benefits include avoided injury)	X		X
Reduced water treatment costs for municipal drinking water, irrigation water, and industrial process			X
Improved commercial fisheries yields			X
Increased tourism and participation in water-based recreation			X
Increased property values from water quality improvements			X
Increased ability to market coal combustion byproducts	X[a]		

TABLE XIV–1—BENEFIT CATEGORIES ASSOCIATED WITH FINAL RULE—Continued

Benefit category	Quantified and monetized	Quantified but not monetized	Neither quantified nor monetized
Reduced maintenance dredging in navigational waterways and reservoirs from reduction in sediment discharges	X[a]		
4. Air-Related Benefits			
Human health benefits from reduced morbidity and mortality from exposure to NO_X, SO_2 and particulate matter ($PM_{2.5}$)	X		
Avoided climate change impacts from CO_2 emissions	X		
5. Benefits from Reduced Water Withdrawals			
Increased availability of ground water resources	X		
Reduced impingement and entrainment of aquatic organisms			X
Reduced susceptibility to drought			X

[a] Monetized benefit category added for the final rule.
[b] These values are implicit in the total willingness to pay (WTP) for water quality improvements.

The following section summarizes EPA's analysis of the benefits that the Agency was able to quantify and monetize (identified in the second column of Table XIV–1). The final rule will also provide additional benefits that the Agency was not able to monetize. The BCA Report further describes some of these additional non-monetized benefits.

B. Quantification and Monetization of Benefits

1. Human Health Benefits From Surface Water Quality Improvements

Reduced pollutant discharges from steam electric power plants generate human health benefits in a number of ways. As described in Section XIII, exposure to pollutants in steam electric power plant discharges via consumption of fish from affected waters can cause a wide variety of adverse health effects, including cancer, kidney damage, nervous system damage, fatigue, irritability, liver damage, circulatory damage, vomiting, diarrhea, brain damage, IQ loss, and many others. Because the final rule will reduce discharges of steam electric pollutants into waterbodies that receive, or are downstream from, these discharges, it is likely to result in decreased incidences of associated illnesses.

Due to data limitations and uncertainties, EPA is able to monetize only a subset of the health benefits associated with reductions in pollutant discharges from steam electric power plants. EPA analyzed the following measures of human health-related benefits: Reduced lead-related IQ loss in children aged zero to seven from fish consumption; reduced cardiovascular disease in adults from lead and arsenic exposure from fish consumption; reduced mercury-related IQ loss in children exposed in utero due to maternal fish consumption; and reduced cancer risk in adults due to arsenic exposure from fish consumption. EPA monetized these human health benefits by estimating the change in the expected number of individuals experiencing adverse human health effects in the populations exposed to steam electric discharges and/or reduced exposure levels, and valuing these changes using a variety of monetization approaches.

These are not the only human health benefits expected to result from the final rule. EPA also estimated additional human health benefits derived from changes in air emissions. These additional benefits are discussed separately in Section XIV.B.4.

a. Monetized Human Health Benefits From Surface Water Quality Improvements

EPA estimated health risks from the consumption of contaminated fish from waterbodies within 50 miles of households. EPA used Census Block population data, state-specific average fishing rates, and data on fish consumption advisories to estimate the exposed population. EPA used cohort-specific fish consumption rates and waterbody-specific fish tissue concentration estimates to calculate exposure to steam electric pollutants. Cohorts were defined by age, sex, race/ethnicity, and fishing mode (recreational/subsistence). EPA used these data to quantify and monetize the following six categories of human health benefits, which are further detailed in the BCA Report:

- Benefits from Reduced IQ Loss in Children from Lead Exposure via Fish Consumption.
- Benefits from Reduced Need for Specialized Education for Children from Lead Exposure via Fish Consumption.
- Benefits from Reduced Incidence of Cardiovascular Disease from Lead Exposure via Fish Consumption.
- Benefits of Reduced In Utero Mercury Exposure via Maternal Fish Consumption.
- Benefits from Reduced Incidence of Cancer from Arsenic Exposure via Fish Consumption.
- Benefits from Reduced Incidence of Cardiovascular Disease from Arsenic Exposure via Fish Consumption.

Table XIV–2 summarizes monetized human health benefits from surface water quality improvements. EPA estimates that the final rule will provide human health benefits valued at $16.5 to $17.9 million annually, using a three percent discount rate, and $11.3 to $11.6 million, using a seven percent discount rate. In addition, EPA estimated health benefits associated with changes in air emissions, as discussed in Section XIV.B.4.

TABLE XIV–2—HUMAN HEALTH BENEFITS FROM SURFACE WATER QUALITY IMPROVEMENTS

Benefit category	Annualized benefits (million 2013$)
3% Discount Rate	
Benefits from Reduced IQ Loss in Children from Lead Exposure via Fish Consumption [a]	$1.0 ($0.8 to $1.1)
Benefits from Reduced Need for Specialized Education for Children from Lead Exposure via Fish Consumption	<0.1
Benefits from Reduced Incidence of Cardiovascular Disease (CVD) from Lead Exposure via Fish Consumption	12.8
Benefits of Reduced In Utero Mercury Exposure via Maternal Fish Consumption [a]	3.5 (2.9 to 4.0)
Benefits from Reduced Incidence of Cancer from Arsenic Exposure via Fish Consumption	<0.1
Subtotal [b]	16.5 to 17.9 (15.2 to 16.7)
7% Discount Rate	
Benefits from Reduced IQ Loss in Children from Lead Exposure via Fish Consumption [a]	0.2 (0.1 to 0.2)
Benefits from Reduced Need for Specialized Education for Children from Lead Exposure via Fish Consumption	<0.1
Benefits from Reduced Incidence of CVD from Lead Exposure via Fish Consumption	10.7
Benefits of Reduced In Utero Mercury Exposure via Maternal Fish Consumption [a]	0.6 (0.5 to 0.7)
Benefits from Reduced Incidence of Cancer from Arsenic Exposure via Fish Consumption	<0.1
Subtotal [b]	11.4 (10.7 to 11.0)

[a] Low end is based on the assumption that the loss of one IQ point results in the loss of 1.76% of lifetime earnings (following Schwartz, 1994); high end is based on the assumption that the loss of one IQ point results in the loss of 2.38% of lifetime earnings (following Salkever, 1995).
[b] Totals may not add up due to independent rounding.

2. Improved Ecological Conditions and Recreational Use Benefits From Surface Water Quality Improvements

EPA expects the final rule will provide ecological benefits by improving ecosystems (aquatic and terrestrial) affected by the electric power industry's discharges. Benefits associated with changes in aquatic life include restoration of sensitive species, recovery of diseased species, changes in taste-and odor-producing algae, changes in dissolved oxygen (DO), increased assimilative capacity of affected waters, and improved recreational activities. Activities such as fishing, swimming, wildlife viewing, camping, waterfowl hunting, and boating may be enhanced when risks to aquatic life and perceivable water quality effects associated with pollutants are reduced.

EPA was able to monetize several categories of ecological benefits associated with this final rule, including recreational use and nonuse (existence, bequest, and altruistic) benefits from improvements in the health of aquatic environments, and nonuse benefits from increased populations of threatened and endangered species. As shown in Table XIV–1, the Agency quantified and monetized two main benefit subcategories, discussed below: (1) Benefits from improvements in surface water quality, and (2) benefits from improved protection of threatened and endangered (T&E) species.

a. Improvements in Surface Water Quality

EPA expects the final rule will improve aquatic habitats and human welfare by reducing concentrations of harmful pollutants such as arsenic, cadmium, chromium, lead, mercury, selenium, nitrogen, phosphorus, and suspended sediment. As a result, some of the waters that were not usable for recreation under the baseline discharge conditions may become usable following the rule, thereby benefiting recreational users. Waters that have been used for recreation under the baseline conditions can become more attractive by making recreational trips even more enjoyable. The final rule is also expected to generate nonuse benefits from bequest, altruism, and existence motivations. Individuals may value knowing that water quality is being maintained, ecosystems are being protected, and species populations are healthy, independent of any use.

EPA estimates that approximately 19,600 reach miles will improve as a result of the final rule, as indicated by a higher post-compliance water quality index (WQI) score. The WQI translates water quality measurements, gathered for multiple parameters that are indicative of various aspects of water quality, into a single numerical indicator that reflects achievement of quality consistent with the suitability for certain uses.

EPA estimated monetized benefit values using a revised version of the meta-regression of surface water valuation studies used in the benefit-cost analysis of the proposed ELGs (DCN SE03172). Using a meta-dataset of 51 studies published between 1985 and 2011, EPA developed a meta-regression model that predicts how marginal willingness to pay (WTP) for water quality improvements depends on a variety of methodological, population, resource, and water quality change characteristics. EPA developed two versions of the meta-regression model: The first model (Model 1) provides a central estimate of non-market benefits, while the second model (Model 2) provides a range of estimates to account for uncertainty in the resulting WTP values. Chapter 4 of the BCA provides more details on the meta-regression models and analysis.

EPA estimated economic values of water quality improvements at the Census block group level. Water quality improvements are measured as a length-weighted average of the changes in WQI for waters within 100 miles of the center of each Census block; these waters includes both waters improving as a result of the final rule and waters not affected by steam electric plant discharges but which may be substitutes for improved waters.

EPA first estimated annual household marginal WTP values for a given Census block group using the meta- regression

models (Model 1 and Model 2) and multiplied this marginal WTP by the annual average water quality change for the Census block group to obtain the annual household WTP.

EPA then estimated total WTP values by multiplying the annual household WTP values by the total number of households within a Census block group. EPA annualized the stream of future benefits, expressed in 2013 dollars, using both 3 and 7 percent discount rates.

Total national benefits are the sum of estimated Census block group-level WTP across all block groups for which at least one waterbody within 100 miles is improved.

Average annual household WTP estimates for the final ELGs range from $0.32 on the low end to $1.77 on the high end, with a central estimate of $0.45. An estimated 84.5 million households reside in Census block groups within 100 miles of affected reaches. The total annualized benefits of water quality improvements resulting from reduced metal, nutrient, and sediment pollution in the approximately 19,600 reach miles improving under the final ELGs range from $23.2 million to $129.5 million with a central estimate of $31.3 million using a three percent discount rate and $18.5 million to $103.4 million with a central estimate of $25.1 million using a seven percent discount rate.

b. Benefits to Threatened and Endangered Species

To assess the potential for impacts on T&E species (both aquatic and terrestrial), EPA analyzed the overlap between waters currently exceeding wildlife-based national recommended WQC, but expected to have no wildlife national recommended WQC exceedances as a result of the final rule, and the known critical habitat locations of approximately 631 T&E species. EPA examined the life history traits of potentially affected T&E species to categorize species by the potential for population impacts likely to occur as a result of changes in water quality. Chapter 5 of the BCA Report details the methodology.

EPA determined that of 15 species whose recovery may be enhanced by the final rule, three fish species and one salamander species may experience changes in population growth rates as a result of the final rule. To quantify the benefits to T&E species, EPA weighted minimal population growth assumptions (0.5, 1, or 1.5 percent) by the percent of reaches used by T&E species that are expected to meet wildlife-based national recommended WQC because of the final rule.

The T&E species expected to benefit from the rule include one species of sturgeon and two species of minnows. All of these species have nonuse values, including existence, bequest, altruistic, and ecological service values, apart from human uses or motives. EPA estimated the economic values of increased T&E species populations using a benefit function transfer approach based on a meta-analysis of 31 stated preference studies eliciting WTP for these changes (Richardson and Loomis 2009). Because the underlying metadata do not include amphibian valuation studies, EPA was unable to monetize any benefits for potential population increases of Hellbender salamander. EPA estimates annualized benefits to T&E species of approximately $0.02 million, using either a three percent or seven percent discount rate.

3. Market and Productivity Benefits

a. Benefits From Reduced Magnitude of Impoundment Failures

Operational changes that plants choose to make to meet requirements in the final rule may cause some plants to reduce their reliance on impoundments to handle their waste. EPA expects these changes to reduce the magnitude of impoundment failures and the resulting accidental, and sometimes catastrophic releases, of CCRs.

To assess the benefits associated with changes in impoundment use, EPA estimated the costs associated with expected releases under baseline conditions (assuming no change in operations relative to expected operations under the CCR and CPP rules) and for projected reductions in the amount of CCR waste managed by impoundments. EPA performed the calculations for each of the 883 to 925 impoundments identified at steam electric power plants,[54] and for each year between 2016 and 2042. EPA then calculated benefits as the difference between expected release costs for the final rule and expected release costs under baseline conditions.

To estimate the number of release events that may be avoided as a result of the ELGs, EPA followed the same approach used by EPA for its RIA for the CCR rule. The approach relies on estimated failure rates and capacity factors for two different types of releases (wall breach and other release) and two categories of impoundments (big and small). For the final steam electric ELG rule analysis, EPA used baseline release-rate assumptions that account for changes projected to result from implementation of the CCR rule. As detailed in Chapter 6 of the BCA Report, EPA calculated the expected costs of an impoundment release, including cleanup, natural resource damages (NRD),[55] and transaction costs.[56]

Using the approach above, EPA estimates the annualized benefits of the final rule are $95.6 million to $102.9 million using a three percent discount rate, and $77.7 million to $83.7 million using a seven percent discount rate.

b. Benefits From Increased Marketability of Coal Combustion Residuals

The final rule may enhance the ability of steam electric power plants to market coal combustion byproducts for beneficial use by converting from wet to dry handling of fly ash, bottom ash and FGD waste. In particular, EPA evaluated the potential benefits from the increased marketability of fly ash as a substitute for Portland cement in concrete production and fly and bottom ashes as substitutes for sand and gravel in fill applications. Based on the change in the quantity of CCRs handled dry and state-level demand for beneficial use applications of CCRs, EPA calculated avoided disposal costs and life-cycle benefits from avoiding the production of virgin materials. Chapter 10 of the BCA Report details the methodology.

EPA estimates the annualized benefits of the final rule at $30.8 million using a three percent discount rate, and $31.1 million using a seven percent discount rate.

4. Air-Related Benefits (Human Health and Avoided Climate Change Impacts)

EPA expects the final rule to affect air pollution through three main mechanisms: (1) Additional auxiliary electricity use by steam electric power

[54] The 883 to 925 impoundments represent the estimated number of impoundments expected to operate after accounting for the projected effects of the CCR rule and CPP rule, relative to the initial universe of 1,070 impoundments located at 347 plants (out of the total universe of 1,080 steam electric plants). The range of impoundments reflects different assumptions regarding the projected effects of the CPP rule on impoundment operations. See Chapter 6 in the BCA for more information.

[55] NRD include only the resource restoration and compensation values; they do not include cleanup costs (or legal costs).

[56] For this analysis, transaction costs include the costs associated with negotiating NRD, determining responsibility among potentially responsible parties, and litigating details regarding settlements and remediation. These activities involve services, whether performed by the complying entity or other parties that EPA expects would be needed in the absence of this regulation, in the event of an impoundment release. Note that the transaction costs do not include fines, cleanup costs, damages, or other costs that constitute transfers or are already accounted for in the other categories analyzed separately.

plants to operate wastewater treatment, ash handling, and other systems, which EPA predicts that plants will use to meet the new effluent limitations and standards; (2) additional transportation-related air emissions due to the increased trucking of CCR waste to landfills; and (3) the change in the profile of electricity generation due to the relatively higher cost to generate electricity at plants incurring compliance costs for the final ELGs. Changes in the profile of generation can result in lower or higher emissions of air pollutants because of variability in emission factors for different types of electric generating units. For this analysis, the changes in air emissions are based on the change in dispatch of generation units projected by IPM V5.13, as a result of overlaying the costs of meeting the final ELGs onto steam electric generating units' production costs. As discussed in Section IX.C.1, the IPM analysis accounts for the effects of other regulations affecting the electric power sector.

EPA estimated the human health and other benefits resulting from net changes in air emissions of three pollutants: NO_X, SO_2, and CO_2. NO_X and SO_X are known precursors to fine particles ($PM_{2.5}$), a criteria air pollutant that has been associated with a variety of adverse health effects—most notably, premature mortality, non-fatal heart attacks, hospital admissions, emergency department visits, upper and lower respiratory symptoms, acute bronchitis, aggravated asthma, lost work days, and acute respiratory symptoms. CO_2 is a key greenhouse gas that is linked to a wide range of climate change effects.

EPA used average benefit-per-ton estimates to value benefits of changes in NO_X and SO_2 emissions, and social cost of carbon (SCC) estimates to value benefits of changes in CO_2 emissions. The calculations are based on the net changes in air emissions and reflect the net reductions in CO_2 and NO_X emissions during the entire period of analysis, and the net increase in SO_2 emissions in 2023–2027, and net decline in SO_2 emissions during the rest of the period. The values are specific to the years 2016, 2020, 2025, and 2030. Because they are almost linear as a function of year, EPA interpolated benefits per ton values for the intermediate years (*e.g.,* between 2020 and 2025) and projected values for the years from 2031 through 2042 by linear regression. While extrapolating introduces some uncertainty, as it does not account for meteorological and air quality changes over time, this approach is a reasonable one, given available information.

Chapter 7 of the BCA Report provides the details of this analysis. As shown in Table XIV–3, EPA estimates that the final rule will provide human health benefits valued at $144.7 million using a three percent discount rate, and $108.8 million using a seven percent discount rate. The rule is expected to provide air-related benefits from changes in CO_2 emissions valued at $139.8 million, using a three percent discount rate.

TABLE XIV–3—ANNUALIZED BENEFITS OF CHANGES IN NO_X, SO_2, AND CO_2 AIR EMISSIONS

[Million 2013$][a]

Benefit category	3 Percent discount rate	7 Percent discount rate[b]
Human health benefits from reduced morbidity and mortality from exposure to NO_X, SO_2 and particulate matter ($PM_{2.5}$)	$144.7	$108.8
Avoided climate change impacts from CO_2 emissions[b]	$139.8	$139.8
Total	$284.5	$248.6

[a] Consistent with the assumptions used for the IPM analyses described in Section IX.C, EPA estimated the benefits relative to a baseline that includes the CPP rule.

[b] EPA used the SCC based on a three percent discount rate to estimate values presented for the seven percent discount rate. EPA uses three percent to discount CO_2-related benefits and seven percent to discount benefits from changes in NO_X and SO_2 emissions. See Section 7.1 of the BCA for details on the methodology.

5. Benefits From Reduced Water Withdrawals (Increased Availability of Ground Water Resources)

Steam electric power plants use water for handling waste (*e.g.,* fly ash, bottom ash) and for operating wet FGD scrubbers. By eliminating or reducing water used in sluicing operations or prompting the recycling of water in FGD wastewater treatment systems, the ELGs are expected to reduce water withdrawals from surface waters and reduce demand on aquifers, in the case of plants that rely on ground water sources.

EPA estimated the benefits of reduced ground water withdrawals based on avoided costs of ground water supply. For each relevant plant, EPA multiplied the reduction in ground water withdrawal (in gallons per year) by water costs of about $1,231 per acre-foot. Chapter 8 of the BCA Report provides the details of this analysis. EPA estimates the annualized benefits of reduced ground water withdrawals are less than $0.1 million annually. Due to data limitations, EPA was not able to monetize the benefits from reduced surface water withdrawals. Chapter 8 of the BCA Report provides additional detail on benefits from reducing surface water withdrawals.

C. Total Monetized Benefits

Using the analysis approach described above, EPA estimates annual total benefits of the final rule for the five monetized categories at approximately $450.6 million to $565.6 million (at a three percent discount rate and $387.3 million to $478.4 million at a seven percent discount rate) (Table XIV–4).

TABLE XIV–4—SUMMARY OF TOTAL ANNUALIZED MONETIZED BENEFITS OF FINAL RULE

Benefit category	Annualized monetized benefits (million 2013$)
3 Percent Discount Rate	
Human Health Benefits from Surface Water Improvements[a d]	$16.5 to $17.9

TABLE XIV–4—SUMMARY OF TOTAL ANNUALIZED MONETIZED BENEFITS OF FINAL RULE—Continued

Benefit category	Annualized monetized benefits (million 2013$)
Improved Ecological Conditions and Recreational Uses [a b d]	$23.3 to $129.5
Market and Productivity Benefits (impoundment failure and ash marketing)	$126.4 to $133.7
Human Health Benefits from Air Quality Improvements	$144.7
Other Air-Related Benefits (climate change)	$139.8
Reduced Water Withdrawals	<$0.1
Total benefits	$450.6 to $565.6
7 Percent Discount Rate	
Human Health Benefits from Surface Water Improvements [a]	$11.3 to $11.6
Improved Ecological Conditions and Recreational Uses [a b]	$18.6 to $103.4
Market and Productivity Benefits (impoundment failure and ash marketing)	$108.8 to $114.8
Human Health Benefits from Air Quality Improvements	$108.8
Other Air-Related Benefits [c] (climate change)	$139.8
Reduced Water Withdrawals	<$0.1
Total benefits	$387.3 to $478.4

[a] Values represent mean benefit estimates. Totals may not add up due to independent rounding.
[b] There may be some, expected to be small, overlap between the willingness-to-pay (WTP) for surface water quality improvements and WTP for benefits to threatened and endangered species.
[c] EPA used the SCC based on a three percent discount rate and discounted CO_2-related benefits using a three percent discount rate, as compared to benefits in other categories, which are discounted using the seven percent discount rate.
[d] Estimates for this benefit category do not reflect revised pollutant loadings, which could result in lower monetized benefits. See Section 1.4.3 of the Benefit Cost Analysis for this rule for details.

D. Other Benefits

The monetized benefits of this final rule do not account for all benefits because, as described above, EPA is unable to monetize some categories. Examples of benefit categories not reflected in these estimates include other cancer and non-cancer health benefits, reduced cost of drinking water treatment, avoided ground water contamination corrective action costs, reduced vulnerability to drought, and reduced aquatic species mortality from reduced surface water withdrawal. The BCA Report discusses these benefits qualitatively, indicating their potential magnitude where possible.

XV. Cost-Effectiveness Analysis

EPA often uses cost-effectiveness analysis in the development and revision of ELGs to evaluate the relative efficiency of alternative regulatory options in removing toxic pollutants from effluent discharges to the nation's waters. Although not required by the CWA, and not a determining factor for establishing BAT and PSES, cost-effectiveness analysis can be a useful tool for describing regulatory options that address toxic pollutants.

A. Methodology

The cost-effectiveness of a regulatory option is defined as the incremental annual cost (in 1981 constant dollars to facilitate comparison to ELGs for other industrial categories promulgated over different years) per incremental toxic-weighted pollutant removals for that option. This definition includes the following concepts:

Toxic-weighted removals. The estimated reductions in pollution discharges, or pollutant removals, are adjusted for toxicity by multiplying the estimated removal quantity for each pollutant by a normalizing toxic weight (toxic weighting factor). The toxic weight for each pollutant measures its toxicity relative to copper, with more toxic pollutants having higher toxic weights. The use of toxic weights allows the removals of different pollutants to be expressed on a constant toxicity basis as toxic pound-equivalents (lb-eq). In the case of indirect dischargers, the removal also accounts for the effectiveness of treatment at POTWs and reflects the toxic-weighted pounds remaining after POTW treatment. The cost-effectiveness analysis does not address the removal of conventional pollutants (*e.g.,* TSS) or nutrients (nitrogen, phosphorus), nor does it address the removal of bulk parameters, such as COD.

Annual costs. The costs used in the cost-effectiveness analysis are the estimated annualized pre-tax costs described in Section IX, restated in 1981 dollars as a convention to allow comparisons with the reported cost effectiveness of other effluent guidelines.

The result of the cost-effectiveness calculation represents the unit cost (in constant 1981 dollars) of removing the next pound-equivalent of pollutants. EPA calculates cost-effectiveness separately for direct and indirect dischargers. EPA notes that only three steam electric power plants are estimated to incur costs associated with the final PSES requirements, as compared to 130 plants estimated to incur costs associated with the final BAT requirements.

Appendix F of the RIA details the analysis.

B. Results

Collectively, the final BAT requirements have a cost-effectiveness ratio of $134/lb-eq ($1981). This cost-effectiveness ratio is well within the range of cost-effectiveness ratios for BAT requirements in other industries. A review of approximately 25 of the most recently promulgated or revised BAT limitations shows BAT cost-effectiveness ranging from less than $1/lb-eq (Inorganic Chemicals) to $404/lb-eq (Electrical and Electronic Components), in 1981 dollars.

Collectively, the final PSES requirements have a cost effectiveness of $1,228/lb-eq ($1981). This ratio is higher than the cost-effectiveness for PSES of other industries, which range from less than $1/lb-eq (Inorganic Chemicals) to $380/lb-eq (Transportation Equipment Cleaning), in

1981 dollars, based on a review of approximately 25 of the most recently promulgated or revised categorical pretreatment standards. As noted above, however, very few plants (three) are indirect dischargers and the cost-effectiveness for one of the three indirect dischargers significantly elevates the value for all three combined. EPA calculated costs for this plant based on a full conversion of its bottom ash handling system to dry handling. However, it is more likely that this plant would choose to implement modifications that would enable it to completely recycle its bottom ash transport water in order to meet the zero discharge standard, rather than undertake a full conversion. In that event, the costs to this indirect discharger—and consequently the cost-effectiveness value for all indirect dischargers, combined—would be lower.

Collectively, cost-effectiveness for the entire rule (BAT and PSES) is $136/lb-eq ($1981).

For the purposes of calculating pollutant loadings under this action, EPA's analysis first handled non-detect values in the reported data by replacing them with a value of one-half of the detection level for the observation that yielded the non-detect. This methodology is standard procedure for the ELG program as well as Clean Water Act assessment and permitting, Safe Drinking Water Act monitoring, and Resource Conservation and Recovery Act and Superfund programs; and this approach is consistent with previous ELGs.

In their comments on the proposed rule, commenters raised the concern that for some pollutants the loadings calculations (particularly for bottom ash) were biased high as a result of high non-detected values in the reported data. These high non-detected values were the result of not using sufficiently sensitive methods. The view was expressed that, should the non-detects fall significantly outside of the range of detected values, assigning them one half of the detection level would not be sufficient to accurately represent pollutant loadings and the associated cost-effectiveness of the rule.

To assess this concern and provide further transparency for this rulemaking, EPA also implemented a second method of treating non-detects where all attributed non-detects (*i.e.,* one-half of the detection limit) that exceeded the highest detected value for a particular pollutant were deleted. Since it is possible that a plant's actual loading fell outside the range of detected values of all of the plants, this methodology served to place an upper bound on the effect of non-detects on the pollutant loading and cost-effectiveness calculations. EPA's decision to incorporate this second approach for bottom ash transport water in this rulemaking reflects the exceptional circumstance in this case where there are so few detected observations in combination with wide variability in sample-specific detection values for the non-detected observations for 6 analytes. For a full discussion of the analysis method and results, see Section 10.2.2 of the TDD and Section F–4 of the RIA. EPA found that this second method of treatment of non-detects affects the averaged pollutant concentrations for 6 out of the 44 analytes, alters pollutant loadings and decreases identified TWPE loadings and removals in comparison to method 1. EPA also calculated the cost-effectiveness for the bottom ash wastestream using the averaged pollutant concentrations derived from method 2, and found in comparison to method 1 the method 2 analysis changed the cost-effectiveness value from $314/TWPE to $457/TWPE for this wastestream and cost-effectiveness of the full rule from $136/TWPE to $149/TWPE. Where appropriate in the TDD, RIA, BCA and certain other documents for the rule, EPA has reflected the results for pollutant loadings and cost effectiveness under both of these approaches. EPA's determination of BAT and the standards and rationale supporting that determination, are discussed in Section VIII; the differences in loadings and cost effectiveness associated with incorporating this second approach to addressing uncertainty related to non-detects do not alter that determination.

XVI. Regulatory Implementation

A. Implementation of the Limitations and Standards

The requirements in this rule apply to discharges from steam electric power plants through incorporation into NPDES permits issued by the EPA or authorized states under Section 402 of the Act and through local pretreatment programs under Section 307 of the Act. Permits or control mechanisms issued after this rule's effective date must incorporate the ELGs, as applicable. Also, under CWA section 510, states can require effluent limitations under state law as long as they are no less stringent than the requirements of this rule. Finally, in addition to requiring application of the technology-based ELGs in this rule, CWA section 301(b)(1)(C) requires the permitting authority to impose more stringent effluent limitations, as necessary, to meet applicable water quality standards.

1. Timing

The direct discharge limitations in this rule apply only when implemented in an NPDES permit issued to a discharger after the effective date of this rule. Under the CWA, the permitting authority must incorporate these ELGs into NPDES permits as a floor or a minimum level of control. While the rule is effective on its effective date (see **DATES** section at the beginning of this preamble), the rule allows a permitting authority to determine a date when the new effluent limitations for FGD wastewater, fly ash transport water, bottom ash transport water, FGMC wastewater, and gasification wastewater apply to a given discharger. The permitting authority must make these final effluent limitations applicable on or after November 1, 2018. For any final effluent limitation that is specified to become applicable after November 1, 2018, the specified date must be as soon as possible, but in no case later than December 31, 2023. For dischargers in the voluntary incentives program choosing to meet effluent limitations for FGD wastewater based on use of evaporation technology, the date for meeting those limitations is December 31, 2023.

For combustion residual leachate, and for certain wastestreams (FGD wastewater, fly ash transport water, bottom ash transport water, FGMC wastewater, and gasification wastewater) at oil-fired generating units and small generating units (50 MW or less), the final BAT limitations apply on the date that a permit is issued to a discharger, following the effective date of this rule. The rule does not build in an implementation period for meeting these limitations, as the BAT limitation on TSS is equal to the previously promulgated BPT limitation on TSS.

Pretreatment standards are self-implementing, meaning they apply directly, without the need for a permit. In this rule, the pretreatment standards for existing sources must be met by November 1, 2018.

The requirements for new source direct and indirect discharges (NSPS and PSNS) provide no extended implementation period. NSPS apply when any NPDES permit is issued to a new source direct discharger, following the effective date of this rule; PSNS apply to any new source discharging to a POTW, as of the effective date of the final rule.

Regardless of when a plant's NPDES permit is ready for renewal, the plant

should immediately begin evaluating how it intends to comply with the requirements of the final ELGs. In cases where significant changes in operation are appropriate, the plant should discuss such changes with the permitting authority and evaluate appropriate steps and a timeline for the changes, even prior to the permit renewal process.

In cases where a plant's final NPDES permit will be issued after the effective date of the final ELGs, but before November 1, 2018, the permitting authority should apply limitations based on the previously promulgated BPT limitations or the plant's other applicable permit limitations until at least November 1, 2018. The permitting authority should also determine what date represents the soonest date, beginning November 1, 2018, that the plant can meet the final BAT limitations in this rule. The permit should require compliance with the final BAT limitations by that date, making clear that in no case shall the limitations apply later than December 31, 2023. Then, for permits that might be administratively continued, the final date will apply, even if that date is at the end of the implementation period. For permits that are issued on or after November 1, 2018, the permitting authority should determine the earliest possible date that the plant can meet the limitations in this rule (but in no case later than December 31, 2023), and apply the final limitations as of that date (BPT limitations or the plant's other applicable permit limitations would apply until such date).

As specified by the rule, the ''as soon as possible'' date determined by the permitting authority is November 1, 2018, unless the permitting authority determines another date after receiving information submitted by the discharger.[57] Assuming that the permitting authority receives relevant information from the discharger, in order to determine what date is ''as soon as possible'' within the implementation period, the permitting authority must then consider the following factors:

(a) Time to expeditiously plan (including to raise capital), design, procure, and install equipment to comply with the requirements of the final rule;

(b) Changes being made or planned at the plant in response to greenhouse gas regulations for new or existing fossil fuel-fired power plants under the Clean Air Act, as well as regulations for the disposal of coal combustion residuals under subtitle D of the Resource Conservation and Recovery Act;

(c) For FGD wastewater requirements only, an initial commissioning period to optimize the installed equipment; and

(d) Other factors as appropriate.

With respect to the first factor, the permitting authority should evaluate what operational changes are expected at the plant to meet the new BAT limitations for each wastestream, including the types of new treatment technologies that the plant plans to install, process changes anticipated, and the timeframe estimated to plan, design, procure, and install any relevant technologies. As specified in the second factor, the permitting authority must also consider scheduling for installation of equipment, which includes a consideration of plant changes planned or being made to comply with certain other key rules that affect the steam electric power generating industry. As specified in the third factor, for the FGD wastewater requirements only, the permitting authority must consider whether it is appropriate to allow more time for implementation, in addition to the three years before implementation of the rule begins on November 1, 2018, in order to ensure that the plant has appropriate time to optimize any relevant technologies. EPA's record demonstrates that plants installing the FGD technology basis spent several months optimizing its operation (initial commissioning period). Without allowing additional time for optimization, the plant would likely not be able to meet the limitations because they are based on the operation of optimized systems. See TDD Section 14 for additional discussion and examples regarding implementation of the final ELGs into NPDES permits.

The ''as soon as possible'' date determined by the permitting authority may or may not be different for each wastestream. EPA recommends that the permitting authority provide a well-documented justification of how it determined the ''as soon as possible'' date in the fact sheet or administrative record for the permit. If the permitting authority determines a date later than November 1, 2018, the justification should explain why allowing additional time to meet the limitations is appropriate, and why the discharger cannot meet the final effluent limitations as of November 1, 2018. In cases where the plant is already operating the BAT technology basis for a specific wastestream (*e.g.,* dry fly ash handling system), operates the majority of the BAT technology basis (*e.g.,* FGD chemical precipitation and biological treatment, without sulfide addition), or expects that relevant treatment and process changes will be in place prior to November 1, 2018, it would not generally be appropriate to allow additional time beyond that date. Regardless, in all cases, the permitting authority must make clear in the permit what date the plant must meet the limitations, and that date may be no later than December 31, 2023.

Where a discharger chooses to participate in the voluntary incentives program and be subject to effluent limitations for FGD wastewater based on evaporation, the permitting authority must allow the plant up to December 31, 2023, to meet those limitations; again, the permit must make clear that the plant must meet the final limitations by December 31, 2023.

2. Applicability of NSPS/PSNS

In 1982, EPA promulgated NSPS/PSNS for certain discharges from new sources. Those sources that were subject to the 1982 NSPS/PSNS will continue to be subject to such standards under this final rule. In addition, sources to which the 1982 NSPS/PSNS apply are also subject to the final BAT/PSES requirements in this rule because they will be existing sources with respect to such new requirements. See 40 CFR 423.15(a) and 40 CFR 423.17(a).

3. Legacy Wastewater

For purposes of the BAT limitations in this rule, legacy wastewater is FGD wastewater, fly ash transport water, bottom ash transport water, FGMC wastewater, and gasification wastewater generated prior to the date established by the permitting authority that is as soon as possible beginning November 1, 2018, but no later than December 31, 2023 (see Section VIII.C.7 and Section VIII.C.8).[58] Direct discharges of legacy wastewater are, under this rule, subject to BAT effluent limitations on TSS in such wastewater, which are equal to the existing BPT effluent limitations on TSS in fly ash transport water, bottom ash transport water, and low volume waste sources.[59] See TDD Section 14 for additional information regarding the legacy wastewater BAT limitations and

[57] Even after the permitting authority receives information from the discharger, it still may be appropriate to determine that November 1, 2018, is ''as soon as possible'' for that discharger.

[58] For plants in the voluntary incentives program, legacy FGD wastewater is FGD wastewater generated prior to December 31, 2023 (see Section VIII.C.13).

[59] The final rule does not establish PSES standards for legacy wastewater for these wastestreams because TSS and the pollutants they represent are effectively treated by POTWs; and, therefore, EPA has determined that they do not pass through the POTW (see Section VIII.E).

guidance on implementing them into NPDES permits.

4. Combined Wastestreams

Most steam electric power plants combine various wastewaters (*e.g.,* FGD wastewater, fly ash and bottom ash transport water) and cooling water either before or after treatment. In such cases, to derive effluent limitations or standards at the point of discharge, the permitting authority typically combines the allowable pollutant concentrations loadings for each set of requirements to arrive at a specific limitation or standard, per pollutant, for the combined wastestream, using the building block approach or combined waste stream formula (CWF). See NPDES Permit Writer's Manual and 40 CFR 403.6. For concentration-based limitations, rather than mass-based limitations, the effluent limitation or standard for the mixed wastestream is a flow-weighted combination of the appropriate concentration–based limitations or standards for each applicable wastestream. Such a calculation is relatively straightforward if the individual wastestreams are subject to limitations or standards for the same pollutants and the flows of the wastestreams are relatively consistent. This, however, is not the case for all wastestreams at steam electric power plants.

Because EPA anticipates that permitting authorities will apply concentration-based limitations or standards, rather than mass-based limitations or standards, in NPDES permits for steam electric power plants, proper application of the building block approach or CWF is necessary to ensure that the reduced pollutant concentrations observed in a combined discharge reflect proper treatment and control strategies rather than dilution. Where a regulated wastestream is combined with a well-known dilution flow, such as cooling water, uncontaminated stormwater, or cooling tower blowdown, the concentration-based limitation for the regulated wastestream is reduced by multiplying it by a factor.[60] This factor is the total flow for the combined wastestream minus the dilution flow divided by the total flow for the combined wastestream. In some cases, a wastestream (*e.g.,* FGD wastewater) containing a regulated pollutant (*e.g.,* selenium or mercury) combines with other wastestreams that contain the same pollutant, but that are not regulated for that pollutant (*e.g.,* legacy wastewater contained in a surface impoundment). In these cases, based on the information in its record, EPA strongly recommends that in applying the building block approach or CWF to the regulated pollutant (selenium or mercury, in the example above), permitting authorities either treat the wastestream that does not have a limitation or standard for the pollutant (legacy wastewater contained in a surface impoundment, in the example above) as a dilution flow or determine a concentration for that pollutant based on representative samples of that wastestream.[61]

In all cases where the permitting authority is applying the building block approach or CWF, except where a regulated wastestream is mixed with a dilution wastestream, the permitting authority must also determine the flow rate for use in the building block approach or CWF. EPA strongly recommends that the permitting authority calculate the flow rate based on representative flow rates for each wastestream.

EPA recommends that, where a steam electric power plant chooses to combine two or more wastestreams that would call for the use of the building block approach or CWF to determine the appropriate limitations or standards for the combined wastestream, the plant should be responsible for providing sufficient data that reflect representative samples of each of the individual wastestreams that make up the combined wastestream. EPA strongly recommends that the representative samples reflect a study of each of the applicable wastestreams that covers the full range of variability in concentration and flow for each wastestream.

EPA anticipates that proper application of the building block approach or CWF will result in combined wastestream limitations and standards that will enable steam electric power plants to combine certain wastestreams, while also ensuring that the plant is actually treating its wastewater as intended by the Act and this rule, rather than simply diluting it. EPA's record demonstrates, however, that combined wastestream limitations and standards at the point of discharge, derived using the building block approach or CWF, may be impractical or infeasible for some combined wastestreams because the resulting limitation or standard for *any* of the regulated pollutants in the combined wastestream would fall below analytical detection levels. In such cases, the permitting authority should establish internal limitations on the regulated wastestream, prior to mixing of the wastestream with others, as authorized pursuant to 40 CFR 122.45(h) and 40 CFR 403.6.[62] See TDD Section 14 for more examples and details about this guidance.

5. Non-Chemical Metal Cleaning Wastes

By reserving BAT and NSPS for non-chemical metal cleaning wastes in this final rule, the permitting authority must continue to establish such requirements based on BPJ for any steam electric power plant discharging this wastestream. As explained in Section VIII.I, in permitting this wastestream, some permitting authorities have classified it as non-chemical metal cleaning wastes (a subset of metal cleaning wastes), while others have classified it as a low volume waste source; NPDES permit limitations for this wastestream thus reflect that classification. In making future BPJ BAT determinations, EPA recommends that the permitting authority examine the historical permitting record for the particular plant to determine how discharges of non-chemical metal cleaning wastes have been permitted in the past. Using historical information and its best professional judgment, the permitting authority could determine that the BPJ BAT limitations should be set equal to existing BPT limitations or it could determine that more stringent BPJ BAT limitations should apply. In making a BPJ determination for new sources, EPA recommends that the permitting authority consider whether it would be appropriate to base standards on BPT limitations for metal cleaning wastes or on a technology that achieves greater pollutant reductions.

B. Upset and Bypass Provisions

A ''bypass'' is an intentional diversion of wastestreams from any portion of a treatment facility. An ''upset'' is an exceptional incident in which there is unintentional and temporary

[60] As is the case with a single regulated wastestream, if the combined wastestream is not discharged, then the limitations and standards are not applicable.

[61] EPA does not recommend that the permitting authority assume that the pollutant is present at a significant level in the wastestream that does not have a relevant limitation or standard and just apply the same limitation or standard for the pollutant to the mixed wastestream. This will not ensure that treatment and control strategies are being employed to achieve the limitations or standards, rather than simply dilution.

[62] As described earlier for wastestreams with zero discharge limitations or standards, just because a wastestream with a numeric limitation or standard is moved, prior to discharge, for use in another plant process, that does not mean that the wastestream ceases to be subject to the applicable numeric limitation or standard, assuming that the wastestream is eventually discharged.

noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. EPA's regulations concerning bypasses and upsets for direct dischargers are set forth at 40 CFR 122.41(m) and (n) and for indirect dischargers at 40 CFR 403.16 and 403.17.

C. Variances and Modifications

The CWA requires application of effluent limitations or pretreatment standards established pursuant to CWA section 301 to all direct and indirect dischargers. The statute, however, provides for the modification of these national requirements in a limited number of circumstances. The Agency has established administrative mechanisms to provide an opportunity for relief from the application of the national effluent limitations guidelines for categories of existing sources for toxic, conventional, and nonconventional pollutants.

1. Fundamentally Different Factors Variance

EPA can develop, with the concurrence of the state, effluent limitations or standards different from the otherwise applicable requirements for an individual existing discharger if that discharger is fundamentally different with respect to factors considered in establishing the effluent limitations guidelines or standards. Such a modification is known as a Fundamentally Different Factors (FDF) variance.

EPA, in its initial implementation of the effluent guidelines program, provided for the FDF modifications in regulations, which were variances from the BPT effluent limitations, BAT limitations for toxic and nonconventional pollutants, and BCT limitations for conventional pollutants for direct dischargers. FDF variances for toxic pollutants were challenged judicially and ultimately sustained by the Supreme Court in *Chem. Mfrs. Ass'n* v. *Natural Res. Def. Council,* 470 U.S. 116, 124 (1985).

Subsequently, in the Water Quality Act of 1987, Congress added a new section to the CWA, section 301(n). This provision explicitly authorizes modifications of the otherwise applicable BAT effluent limitations, if a discharger is fundamentally different with respect to the factors specified in CWA section 304 or 403 (other than costs) from those considered by EPA in establishing the effluent limitations and standards. CWA section 301(n) also defined the conditions under which EPA can establish alternative requirements. Under Section 301(n), an application for approval of a FDF variance must be based solely on (1) information submitted during rulemaking raising the factors that are fundamentally different or (2) information the applicant did not have an opportunity to submit. The alternate limitation must be no less stringent than justified by the difference and must not result in markedly more adverse non-water quality environmental impacts than the national limitation.

EPA regulations at 40 CFR part 125, subpart D, authorizing the Regional Administrators to establish alternative limitations, further detail the substantive criteria used to evaluate FDF variance requests for direct dischargers. Thus, 40 CFR 125.31(d) identifies six factors (*e.g.,* volume of process wastewater, age and size of a discharger's facility) that can be considered in determining if a discharger is fundamentally different. The Agency must determine whether, based on one or more of these factors, the discharger in question is fundamentally different from the dischargers and factors considered by EPA in developing the nationally applicable effluent guidelines. The regulation also lists four other factors (*e.g.,* inability to install equipment within the time allowed or a discharger's ability to pay) that cannot provide a basis for an FDF variance. In addition, under 40 CFR 125.31(b) (3), a request for limitations less stringent than the national limitation can be approved only if compliance with the national limitations will result in either (a) a removal cost wholly out of proportion to the removal cost considered during development of the national limitations, or (b) a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits. The legislative history of CWA section 301(n) underscores the necessity for the FDF variance applicant to establish eligibility for the variance. EPA's regulations at 40 CFR 125.32(b)(1) and 40 CFR 403.13 impose this burden upon the applicant. The applicant must show that the factors relating to the discharge controlled by the applicant's permit that are claimed to be fundamentally different are, in fact, fundamentally different from those factors considered by EPA in establishing the applicable guidelines and standards. In practice, very few FDF variances have been granted for past ELGs. An FDF variance is not available to a new source subject to NSPS or PSNS. *DuPont* v. *Train,* 430 U.S. 112 (1977).

2. Economic Variances

Section 301(c) of the CWA authorizes a variance from the otherwise applicable BAT effluent guidelines for nonconventional pollutants due to economic factors. See also CWA section 301(l). The request for a variance from effluent limitations developed from BAT guidelines must normally be filed by the discharger during the public notice period for the draft permit. Other filing periods can apply, as specified in 40 CFR 122.21(m)(2). Specific guidance for this type of variance is provided in ''Draft Guidance for Application and Review of Section 301(c) Variance Requests,'' dated August 21, 1984, available on EPA's Web site at *http://www.epa.gov/npdes/pubs/OWM0469.pdf.*

3. Water Quality Variances

Section 301(g) of the CWA authorizes a variance from BAT effluent guidelines for certain nonconventional pollutants (ammonia, chlorine, color, iron, and total phenols) due to localized environmental factors. As this final rule does not establish limitations or standards for any of these pollutants, this variance is not applicable to this particular rule.

4. Removal Credits

Section 307(b)(1) of the CWA establishes a discretionary program for POTWs to grant ''removal credits'' to their indirect dischargers. Removal credits are a regulatory mechanism by which industrial users can discharge a pollutant in quantities that exceed what would otherwise be allowed under an applicable categorical pretreatment standard because it has been determined that the POTW to which the industrial user discharges consistently treats the pollutant. EPA has promulgated removal credit regulations as part of its pretreatment regulations. See 40 CFR 403.7. These regulations provide that a POTW can give removal credits if prescribed requirements are met. The POTW must apply to and receive authorization from the Approval Authority. To obtain authorization, the POTW must demonstrate consistent removal of the pollutant for which approval authority is sought. Furthermore, the POTW must have an approved pretreatment program. Finally, the POTW must demonstrate that granting removal credits will not cause the POTW to violate applicable federal, state, or local sewage sludge requirements. 40 CFR 403.7(a)(3).

The U.S. Court of Appeals for the Third Circuit interpreted the CWA as requiring EPA to promulgate the comprehensive sewage sludge regulations pursuant to CWA section 405(d)(2)(A)(ii) before any removal credits could be authorized. *See Natural Res. Def. Council* v. *EPA,* 790 F.2d 289, 292 (3d Cir. 1986), *cert. denied,* 479 U.S. 1084 (1987). Congress made this explicit in the Water Quality Act of 1987, which provided that EPA could not authorize any removal credits until it issued the sewage sludge use and disposal regulations. On February 19, 1993, EPA promulgated Standards for the Use or Disposal of Sewage Sludge, which are codified at 40 CFR part 503 (58 FR 9248). EPA interprets the Court's decision in *Natural Res. Def. Council* v. *EPA* as only allowing removal credits for a pollutant if EPA has either regulated the pollutant in part 503 or established a concentration of the pollutant in sewage sludge below which public health and the environment are protected when sewage sludge is used or disposed.

The part 503 sewage sludge regulations allow four options for sewage sludge disposal: (1) Land application for beneficial use, (2) placement on a surface disposal unit, (3) firing in a sewage sludge incinerator, and (4) disposal in a landfill which complies with the municipal solid waste landfill criteria in 40 CFR part 258. Because pollutants in sewage sludge are regulated differently depending upon the use or disposal method selected, under EPA's pretreatment regulations the availability of a removal credit for a particular pollutant is linked to the POTW's method of using or disposing of its sewage sludge. The regulations provide that removal credits can be potentially available for the following situations:

(1) If a POTW applies its sewage sludge to the land for beneficial uses, disposes of it in a surface disposal unit, or incinerates it in a sewage sludge incinerator, removal credits can be available for the pollutants for which EPA has established limits in 40 CFR part 503. EPA has set ceiling limitations for nine metals in sludge that is land applied, three metals in sludge that is placed on a surface disposal unit, and seven metals and 57 organic pollutants in sludge that is incinerated in a sewage sludge incinerator. 40 CFR 403.7(a)(3)(iv)(A).

(2) Additional removal credits can be available for sewage sludge that is land applied, placed in a surface disposal unit, or incinerated in a sewage sludge incinerator, so long as the concentration of these pollutants in sludge do not exceed concentration levels established in 40 CFR part 403, appendix G, Table II. For sewage sludge that is land applied, removal credits can be available for an additional two metals and 14 organic pollutants. For sewage sludge that is placed on a surface disposal unit, removal credits can be available for an additional seven metals and 13 organic pollutants. For sewage sludge that is incinerated in a sewage sludge incinerator, removal credits can be available for three other metals 40 CFR 403.7(a)(3)(iv)(B).

(3) When a POTW disposes of its sewage sludge in a municipal solid waste landfill that meets the criteria of 40 CFR part 258, removal credits can be available for any pollutant in the POTW's sewage sludge. 40 CFR 403.7(a)(3)(iv)(C).

D. Site-Specific Water Quality-Based Effluent Limitations

Depending on site-specific conditions and applicable state water quality standards, it may be appropriate for permitting authorities to establish water quality-based effluent limitations on bromide,[63] especially where steam electric power plants are located upstream from drinking water intakes.

Bromides (a component of TDS) are not directly controlled by the numeric effluent limitations and standards for existing sources under this final rule [64] (although they would be controlled by the NSPS/PSNS for new sources and by the BAT effluent limitations for existing sources who choose to participate in the voluntary program and are subject to the final FGD wastewater limitations based on use of evaporation technology).

Bromide discharges from coal-fired steam electric power plants can occur because bromide is naturally found in coal and is released as particulates when the coal is burned, or by the addition of bromide compounds to the coal prior to burning, or to the flue gas scrubbing process, to reduce the amount of mercury air pollution that is also created when coal is burned.

While bromide itself is not thought to be toxic at levels present in the environment, its reaction with other constituents in water may be a cause for concern now and into the future. The bromide ion in water can form brominated DBPs when drinking water plants treat the incoming source water using certain disinfection processes including chlorination and ozonation. Bromide can react with the ozone, chlorine, or chlorine-based disinfectants to form bromate and brominated and mixed chloro-bromo DBPs, such as trihalomethanes (THMs) or haloacetic acids (HAAs) (see DCN SE01920). Studies indicate that exposure to THMs and other DBPs from chlorinated water is associated with human bladder cancer (see DCN SE01981 and DCN SE01983). EPA has established the following MCLs for DBPs:

- 0.010 mg/L for bromate due to increased cancer risk from long-term exposure;
- 0.060 for HAAs due to increased cancer risk from long-term exposure; and
- 0.080 mg/L for TTHMs due to increased cancer risk and liver, kidney or central nervous system problems from long-term exposure (see DCN SE01909).

The record indicates that steam electric power plant FGD wastewater discharges occur near more than 100 public drinking water intakes on rivers and other waterbodies, and there is evidence that these discharges are already having adverse effects on the quality of drinking water sources. A 2014 study by McTigue et. al. identified four drinking water treatment plants that experienced increased levels of bromide in their source water, and corresponding increases in the formation of brominated DBPs, after the installation of wet FGD scrubbers at upstream steam electric power plants (see DCN SE04503).

Drinking water utilities are concerned as well, noting that the bromide concentrations have made it increasingly difficult for them to meet SDWA requirements for total trihalomethanes (TTHMs) (see DCN SE01949). And, bromide loadings into surface waters from coal-fired steam electric power plants could potentially increase in the future as more plant operators use bromide addition to improve the control of mercury emissions. The American Water Works Association requested that EPA ''instruct NPDES permit writers to adequately consider downstream drinking water supplies in establishing permit requirements for power plant discharges'' and take other steps to limit adverse consequences for downstream drinking water treatment plants. EPA agrees that permitting authorities should carefully consider whether water quality-based effluent limitations on bromide or TDS would be appropriate for FGD wastewater discharges from steam electric power plants upstream of drinking water intakes.

[63] Some may establish limitations on TDS as an indicator of bromide because bromide is a component of TDS.

[64] TDS, like all pollutants, are controlled where there are zero discharge effluent limitations and standards.

EPA regulations at 40 CFR 122.44(d)(1) require that each NPDES permit shall include any requirements, in addition to or more stringent than effluent limitations guidelines or standards promulgated pursuant to sections 301, 304, 306, 307, 318 and 405 of the CWA, necessary to achieve water quality standards established under section 303 of the CWA, including state narrative criteria for water quality. Furthermore, those same regulations require that limitations must control all pollutants, or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any state water quality standard, including state narrative criteria for water quality.

Where the DBP problem described above may be present, water quality-based effluent limitations for steam electric power plant discharges may be required under the regulations at 40 CFR 122.44(d)(1), where necessary to meet either numeric criteria (*e.g.,* for bromide, TDS or conductivity) or narrative criteria in state water quality standards. All states have narrative water quality criteria that are designed to prevent contamination and other adverse impacts to the states' surface waters. These are often referred to as ''free from'' standards. For example, a state narrative water quality criterion for protecting drinking water sources may require discharges to protect people from adverse exposure to chemicals via drinking water. These narrative criteria may be used to develop water quality-based effluent limitations on a site-specific basis for the discharge of pollutants that impact drinking water sources, such as bromide.

To translate state narrative water quality criteria and inform the development of a water quality-based limitation for bromide, it may be appropriate for permitting authorities to use EPA's established MCLs for DBPs in drinking water because the presence of bromides in drinking water can result in exceedances of drinking water MCLs as a result of interactions during drinking water treatment and disinfection processes. The limitation would be developed for the purpose of attaining and maintaining the state's applicable narrative water quality criterion or criteria and protecting the state's designated use(s), including the protection of human health. See 40 CFR 122.44(d)(1)(vi).

For the reasons described above, during development of the NPDES permit for the steam electric power plant, the permitting authority should provide notification to any downstream drinking water treatment plants of the discharge of bromide. EPA recommends that the permitting authority collaborate with drinking water utilities and their regulators to determine what concentration of bromides at the PWS intake is needed to ensure that levels of bromate and DPBs do not exceed applicable MCLs. The maximum level of bromide in source waters at the intake that does not result in an exceedance of the MCL for DBPs is the numeric interpretation of the narrative criterion for protection of human health and may vary depending on the treatment processes employed at the drinking water treatment facility. The permitting authority would then determine the level of bromide that may be discharged from the steam electric power plant, taking into account other sources of bromide that may occur, such that the level of bromide downstream at the intake to the drinking water utility is below a level that would result in an exceedances of the applicable MCLs for DBPs. In addition, applicants for NPDES permits must, as part of their permit application, indicate whether they know or have reason to believe that conventional and/or nonconventional pollutants listed in Table IV of Appendix D to 40 CFR part 122, (which includes bromide), are discharged from each outfall. For every pollutant in Table IV of Appendix D discharged which is not limited in an applicable effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged as set forth in 40 CFR 122.2l(g)(7)(vi)(A), made applicable to the States at 40 CFR 123.25(a)(4).

In addition to requiring the permit applicant to provide a complete application, including proper wastewater characterization, when issuing the permit, the permitting authority can incorporate appropriate monitoring and reporting requirements, as authorized under section 402(a)(2), 33 U.S.C. 1342(a)(2), and implementing regulations at 40 CFR 122.48, 122.44(i), 122.43 and 122.41(1)(4). These requirements apply to all dischargers and include plants that have identified the presence of bromide in effluent in significant quantities and that are in proximity to downstream water treatment plants.

XVII. Related Acts of Congress, Executive Orders, and Agency Initiatives

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is contained in Chapter 13 of the BCA Report, available in the docket.

Table XVII–1 (drawn from Table 13–1 of the BCA Report) provides the results of the benefit-cost analysis with both costs and benefits annualized over 24 years and discounted using a three percent discount rate.

TABLE XVII–1—TOTAL MONETIZED ANNUALIZED BENEFITS AND COSTS OF THE FINAL BAT AND PSES

[Millions, 2013$, three percent discount rate] [a]

	Total social costs [b]	Total monetized benefits
Annualized Value	$479.5	$450.6 to $565.6

[a] All costs and benefits were annualized over 24 years and using a three percent discount rate.
[b] Total social costs include compliance costs to facilities.

B. Paperwork Reduction Act

OMB has previously approved the information collection requirements contained in the existing regulations 40 CFR part 423 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040–0281. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

EPA estimated small changes in monitoring costs at steam electric power plants for metals in the final rule; EPA accounted for these costs as part of its analysis of the economic impacts. Plants, however, will also realize certain savings by no longer monitoring effluent that would cease to exist under the final rule. The net changes in monitoring and reporting are expected to be minimal, and EPA determined that the existing burden estimates appropriately reflect any final rule burden associated with monitoring.

Based on the information in its record, EPA does not expect the final rule to increase costs to permitting authorities. The rule will not change permit application requirements or the associated review; it will not increase the number of permits issued to steam electric power plants; nor does it increase the efforts involved in developing or reviewing such permits. In fact, the final rule will reduce the burden to permitting authorities. In the absence of nationally applicable BAT requirements, as appropriate, permitting authorities must establish technology-based effluent limitations using BPJ to establish site-specific requirements based on information submitted by the discharger. Permitting authorities that establish technology-based effluent limitations on a BPJ basis often spend significant time, effort, and resources doing so, and dischargers may expend significant resources providing associated data and information. Establishing nationally applicable BAT requirements that eliminate the need to develop BPJ-based limitations makes permitting easier and less costly in this respect.

As explained in Section XVI.A, under this rule, after the permitting authority receives information from the discharger, it must determine, on a facility-specific basis, what date is ''as soon as possible'' during the period beginning November 1, 2018, and ending December 31, 2023. This one-time burden to the discharger and the permitting authority, however, is no more excessive than the existing burden associated with developing technology-based effluent limitations on a BPJ basis; in fact, it is very likely less burdensome. Nevertheless, EPA conservatively estimated no net change (increase or decrease) in the cost burden to federal or state governments or dischargers associated with this final rule.

C. Regulatory Flexibility Act

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

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The basis for this finding is documented in Chapter 8 of the RIA included in the docket and summarized below. EPA estimates that 243 to 507 entities own steam electric power plants to which the ELGs apply, of which 110 to 191 entities are small (see Table XVII–2).

TABLE XVII–2—NUMBER OF ENTITIES OWNING STEAM ELECTRIC POWER PLANTS BY SECTOR AND SIZE

[Assuming two different ownership cases] [a]

Ownership type	Lower bound estimate of number of entities owning steam electric power plants [b]			Upper bound estimate of number of entities owning steam electric power plants [b]		
	Total	Small [c]	% Small	Total	Small [c]	% Small
Investor-Owned Utilities	97	28	28.9	244	66	27.1
Nonutilities	36	19	52.8	77	35	46.1
Cooperatives	29	26	89.7	49	46	93.9
Municipality	65	36	55.4	101	43	42.1
Other Political Subdivision	12	1	8.3	30	1	3.3
Federal	0	0	N/A	0	0	N/A
State	2	0	0.0	2	0	0.0
Tribal	0	0	N/A	0	0	N/A
All Entity Types	243	110	45.3	507	191	37.6

[a] In 19 instances, a plant is owned by a joint venture of two entities; in one instance, the plant is owned by a joint venture of three entities.

[b] Of these, 75 entities, 21 of which are small, own steam electric power plants that are expected to incur compliance costs under the final rule under both Case 1 and Case 2.

[c] EPA was unable to determine size for 16 parent entities; for this analysis, these entities are assumed to be small.

To assess whether small entities' compliance costs might constitute a significant impact, EPA summed annualized compliance costs for the steam electric power plants determined to be owned by a given small entity and calculated these costs as a percentage of entity revenue (cost-to-revenue test). EPA compared the resulting percentages to impact criteria of one percent and three percent of revenue. Small entities estimated to incur compliance costs exceeding one or more of the one percent and three percent impact thresholds were identified as potentially incurring a significant impact.

EPA notes that setting the BAT limitations for FGD wastewater, fly ash transport water, bottom ash transport water, FGMC wastewater, and gasification wastewater equal to the BPT limitations on TSS in fly ash transport water, bottom ash transport water, and low volume waste sources at existing generating units with a total nameplate generating capacity of 50 MW or less (as discussed in Section VIII.C.12) reduces the potential impacts of the rule on small entities and municipalities. The rulemaking record indicates that establishing a size threshold of 50 MW or less preferentially minimizes some of the expected economic impacts on municipalities and small entities.

Table XVII–3 presents the estimated numbers of small entities incurring costs exceeding one percent and three percent of revenue, by ownership type.

TABLE XVII–3—ESTIMATED COST-TO-REVENUE IMPACT ON SMALL ENTITIES OWNING STEAM ELECTRIC POWER PLANTS, BY OWNERSHIP TYPE

	Lower bound estimate of number of entities owning steam electric power plants				Upper bound estimate of number of entities owning steam electric power plants			
	Cost ≥1% of revenue		Cost ≥3% of revenue		Cost ≥1% of revenue		Cost ≥3% of revenue	
	Number of small entities	% of small affected entities [b]	Number of small entities [a]	% of small affected entities [b]	Number of small entities	% of small affected entities [b]	Number of small entities [a]	% of small affected entities [b]
Ownership Type	Out of total 110 small entities				Out of total 191 small entities			
Cooperative	1	3.8	0	0.0	1	2.2	0	0.0
Investor-Owned	0	0.0	0	0.0	0	0.0	0	0.0
Municipality	4	11.1	1	2.8	4	9.4	1	2.3
Nonutility	1	5.3	0	0.0	1	2.8	0	0.0
Other Political Subdivision	0	0.0	0	0.0	0	0.0	0	0.0
Total	6	5.5	1	0.9	6	3.1	1	0.5

[a] The number of entities with cost-to-revenue ratios exceeding three percent is a subset of the number of entities with such ratios exceeding one percent.

[b] Percentage values were calculated relative to the total of 110 (Case 1) and 191 (Case 2) small entities owning steam electric power plants. EPA expects that Case 2 is a more likely ownership scenario for small entities (*e.g.,* small municipalities) as small entities may be less likely to own multiple non-surveyed steam electric power plants. See RIA Chapter 8 for details.

As reported in Table XVII–3, EPA estimates that six small entities owning steam electric power plants (one cooperative, one nonutility, and four municipalities) will incur costs exceeding one percent of revenue as a result of the final rule, and one small municipality owning steam electric power plants will incur costs exceeding three percent of revenue. The numbers of small entities incurring costs exceeding either the one or three percent of revenue impact threshold are small in the absolute and represent small percentages of the total estimated number of small entities, which supports EPA's finding of no significant impact on a substantial number of small entities (No SISNOSE).

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, requires federal agencies, unless otherwise prohibited by law, to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This action contains a federal mandate that may result in expenditures of $100 million or more (annually, adjusted for inflation) for state, local, and tribal governments, in the aggregate, or the private sector in any one year ($141 million in 2013). Accordingly, EPA prepared a written statement required under section 202 of UMRA. The statement is included in the docket for this action (see Chapter 9 in the RIA report) and briefly summarized here.

Consistent with the intergovernmental consultation provisions of UMRA section 204, EPA consulted with governmental entities affected by this rule. EPA described the government-to-government dialogue leading to the proposed rule in its preamble to the proposed rulemaking. EPA received comments from state and local government representatives in response to the proposed rule and considered this input in developing the final rule.

Consistent with UMRA section 205, EPA identified and analyzed a reasonable number of regulatory alternatives to determine BAT/BADCT. Section VIII of this preamble describes the options.

This action is not subject to the requirements of UMRA section 203 because it contains no regulatory requirements that might significantly or uniquely affect small governments. For its assessment of the impact of compliance requirements on small governments (governments for populations of less than 50,000), EPA compared total costs and costs per plant estimated to be incurred by small governments with the costs estimated to be incurred by large governments. EPA also compared costs for small government-owned plants with those of non-government-owned facilities. The Agency evaluated both the average and maximum annualized cost per plant. Chapter 9 of the RIA report provides details of these analyses. In all of these comparisons, both for the cost totals and, in particular, for the average and maximum cost per plant, the costs for small government-owned facilities were less than those for large government-owned facilities and for small non-government-owned facilities. On this basis, EPA concluded that the final rule does not significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

Under Executive Order (E.O.) 13132, EPA may not issue an action that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments or EPA consults with state and local officials early in the process of developing the action.

This action has federalism implications because it may impose substantial direct compliance costs on state or local governments, and the federal government will not provide the funds necessary to pay those costs.

EPA anticipates that this final rule will not impose incremental administrative burden on states from issuing, reviewing, and overseeing compliance with discharge requirements. However, EPA has identified 168 steam electric power plants owned by state or local government entities, out of which 16 plants are estimated to incur costs to meet the limitations. EPA estimates that the maximum aggregate compliance cost in any one year to governments (excluding the federal government) is $171.4 million (see Chapter 9 of the RIA report for details). Based on this information, this action may impose substantial direct compliance costs on state or local governments. Accordingly, EPA provides the following federalism summary impact statement as required by section 6(b) of E.O. 13132.

EPA consulted with elected state and local officials or their representative national organizations early in the process of developing the rule to ensure their meaningful and timely input into its development. The preamble to the proposed rule described these consultations, which included a briefing on October 11, 2011, attended by representatives from the National League of Cities, the National Conference of State Legislatures, the National Association of Counties, the National Association of Towns and Townships, the U.S. Conference of Mayors, the Council of State Governments, the County Executives of America, and the Environmental Council of the States. Policy and professional groups such as the National Rural Electric Cooperative Association, America's Clean Water Agencies, and the American Public Power Association also participated in the briefing, as did environmental and natural resource policy staff representing nine state agencies and approximately 25 local governments and/or utilities. The participants asked questions and raised comments during the meeting. In response to the Agency's request for pre-proposal written submittals within eight weeks of the briefing, EPA received separate written submittals regarding the technology options, pollutant removal effectiveness, costs of specific technologies and overall costs, impacts on small generating units and on small governments, among others. EPA carefully considered these comments in developing the proposed rule.

EPA received comment on the proposed ELGs from 31 state and local officials or their representatives. Some state and local officials expressed concerns EPA had underestimated the costs and overstated the pollutant removals of the technology options. They stated that the ELGs would impose significant costs on small entities, and would result in electricity rate increases that are unaffordable for households. They also stated that small municipal systems typically operate smaller units with disproportionally greater compliance costs as compared to larger units. Commenters also expressed concern about coordination of the CCR and ELG rules, the potential premature retirement of coal-fired units with limited remaining life, and potential downtime during retrofits. Finally, some commenters asked that EPA allow more time to phase-in the requirements. Other state and local officials supported revisions of the ELGs and generally opposed reliance on BPJ as a basis for establishing limitations for FGD wastewater. EPA considered these comments in developing the final rule. A list of the state and local government commenters has been provided to OMB and has been placed in the docket for this rulemaking. In addition, the detailed response to comments from these entities is contained in EPA's response to comments document on this final rulemaking, which has also been placed in the docket for this rulemaking.

As explained in Section VIII, the final rule establishes different BAT/PSES requirements for oil-fired generating units and units of 50 MW or less. These different requirements alleviate some of the concerns raised by state and local government representatives by reducing the number of government entities incurring costs to meet the ELG requirements. The implementation schedule described in Section XVI gives time to facilities to make changes to their operations to meet the final effluent limitations. Moreover, the rule does not rely on BPJ determinations for establishment of FGD wastewater limitations or standards. Finally, as explained in Section IX, EPA's analysis demonstrates that the requirements are economically achievable for the steam electric industry as a whole, including plants owned by state or local government entities.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in E.O. 13175 (65 FR 67249, November 9, 2000). It will not have substantial direct effects on tribal governments, 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, as specified in E.O. 13175. EPA's analyses show that tribal governments do not own any facility to which the ELGs apply. Thus, E.O. 13175 does not apply to this action.

Although E.O. 13175 does not apply to this action, EPA consulted with federally recognized tribal officials under EPA's Policy on Consultation and Coordination with Indian tribes early in the process of developing this rule to enable them to have meaningful and timely input into its development. EPA initiated consultation and coordination with federally recognized tribal governments in August 2011. EPA shared information about the steam electric effluent guidelines rulemaking in discussions with the National Tribal Caucus and the National Tribal Water Council. EPA continued this government-to-government dialogue by mailing a consultation notification letter to tribal leaders, and on March 28, 2012, held a tribal consultation conference call with tribal representatives about the rulemaking process and objectives, with a focus on identifying specific ways that the rulemaking may affect tribes. Representatives from one tribe provided input to the rule. EPA considered input from tribal representatives in developing this final rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to E.O. 13045 (62 FR 19885, April 23, 1997) because the EPA does not expect that the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in Chapter 3 of the BCA Report and summarized below.

As described in Section XIV.B.1, EPA assessed whether the final rule will benefit children by reducing health risk from exposure to steam electric pollutants from consumption of contaminated fish and improving recreational opportunities. The Agency was able to quantify two categories of benefits specific to children: (1) Avoided neurological damage to preschool age children from reduced exposure to lead and (2) avoided neurological damages from in utero exposure to mercury.

This analysis considered several measures of children's health benefits associated with lead exposure for children up to age six. Avoided neurological and cognitive damages were expressed as changes in three metrics: (1) Overall IQ levels; (2) the incidence of low IQ scores (<70); and (3) the incidence of levels of lead in the blood above 20 mg/dL.

EPA estimated the IQ-related benefits associated with reduced in utero mercury exposure from maternal fish consumption in exposed populations. Among approximately 418,953 babies born per year who are potentially exposed to discharges of mercury from steam electric power plants, the final rule reduces total IQ point losses over the period of 2019 through 2042 by about 7,219 points. The monetary benefits associated with the avoided IQ point losses are $3.5 million per year (mean estimate, at three percent discount rate).

EPA's analysis also shows annualized benefits to children from reduced lead discharges of approximately $1.0 million (at three percent discount rate).

EPA identified additional benefits to children, such as reduced exposure to

lead and the resultant neurological and cognitive damages in children over the age of seven, as well as other adverse health effects.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action,'' as defined by E.O. 13211 (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.

The Agency analyzed the potential energy effects of these ELGs. The potentially significant effects of this rule on energy supply, distribution, or use concern the electric power sector. EPA found that the final rule will not cause effects in the electric power sector that constitute a significant adverse effect under E.O. 13211. Namely, the Agency found that this rule does not reduce electricity production in excess of 1 billion kilowatt hours per year or in excess of 500 megawatts of installed capacity, and therefore does not constitute a significant regulatory action under E.O. 13211.

For more detail on the potential energy effects of this final rule, see Chapter 10 in the RIA report.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

E.O. 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the U.S.

EPA determined that the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. The results of this evaluation are contained in Chapter 14 of the BCA Report, available in the docket.

To meet the objectives of E.O. 12898, EPA examined whether the rule creates potential environmental justice concerns in the areas affected by steam electric power plant discharges. The Agency analyzed the demographic characteristics of the populations who live in proximity to steam electric power plants and who may be exposed to pollutants in steam electric power plant discharges (populations who consume recreationally caught fish from affected reaches) to determine whether minority and or low-income populations are subject to disproportionally high environmental impacts.

EPA conducted the analysis in two ways. First, EPA compared demographic data for populations living in proximity to steam electric power plants to demographic characteristics at the state and national levels. This analysis focuses on the spatial distribution of minority and low-income groups to determine whether these groups are more or less represented in the populations that are expected to benefit from the final rule, based on their proximity to steam electric power plants. This analysis shows that approximately 450,000 people reside within one mile of a steam electric power plant currently discharging to surface waters and 2.7 million people reside within three miles. A greater fraction of the populations living in such proximity to the plants has income below the poverty threshold (16.4 and 15.3 percent, respectively for populations within one and three miles) than the national average (13.9 percent).

Second, EPA conducted analyses of populations exposed to steam electric power plant discharges through consumption of recreationally caught fish by estimating exposure and health effects by demographic cohort. Where possible, EPA used analytic assumptions specific to the demographic cohorts—*e.g.,* fish consumption rates specific to different racial groups. The results show that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because, in fact, it increases the level of environmental protection (reduces adverse human health and environmental effects) for all affected populations, including minority and low-income populations. Furthermore, EPA estimated that minority and low-income populations will receive, proportionately, more of the human health benefits associated with the final rule.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is a ''major rule'' as defined by 5 U.S.C. 804(2).

Appendix A to the Preamble: Definitions, Acronyms, and Abbreviations Used in This Preamble

The following acronyms and abbreviations are used in this preamble.

Administrator. The Administrator of the U.S. Environmental Protection Agency.

Agency. U.S. Environmental Protection Agency.

BAT. Best available technology economically achievable, as defined by CWA sections 301(b)(2)(A) and 304(b)(2)(B).

BCT. The best conventional pollutant control technology applicable to discharges of conventional pollutants from existing industrial point sources, as defined by sections 301(b)(2)(E) and 304(b)(4) of the CWA.

Bioaccumulation. General term describing a process by which chemicals are taken up by an organism either directly from exposure to a contaminated medium or by consumption of food containing the chemical, resulting in a net accumulation of the chemical by an organism due to uptake from all routes of exposure.

BMP. Best management practice.

Bottom ash. The ash, including boiler slag, which settles in the furnace or is dislodged from furnace walls. Economizer ash is included when it is collected with bottom ash.

BPT. The best practicable control technology currently available as defined by sections 301(b)(1) and 304(b)(1) of the CWA.

CBI. Confidential Business Information.

CCR. Coal Combustion Residuals.

Clean Water Act (CWA). The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended, *e.g.,* by the Clean Water Act of 1977 (Pub. L. 95–217), and the Water Quality Act of 1987 (Pub. L. 100–4).

Combustion residuals. Solid wastes associated with combustion-related power plant processes, including fly and bottom ash from coal-, petroleum coke-, or oil-fired units; FGD solids; FGMC wastes; and other wastewater treatment solids associated with combustion wastewater. In addition to the residuals that are associated with coal combustion, this also includes residuals associated with the combustion of other fossil fuels.

Combustion residual leachate. Leachate from landfills or surface impoundments containing combustion residuals. Leachate is composed of liquid, including any suspended or dissolved constituents in the liquid, that has percolated through waste or other materials emplaced in a landfill, or that passes through the surface impoundment's containment structure (*e.g.,* bottom, dikes, and berms). Combustion residual leachate includes seepage and/or leakage from a combustion residual landfill or impoundment unit. Combustion residual

leachate includes wastewater from landfills and surface impoundments located on non-adjoining property when under the operational control of the permitted facility.

Direct discharge. (a) Any addition of any ''pollutant'' or combination of pollutants to ''waters of the United States'' from any ''point source,'' or (b) any addition of any pollutant or combination of pollutant to waters of the ''contiguous zone'' or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This definition includes additions of pollutants into waters of the United States from: Surface runoff which is collected or channeled by man; discharges though pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any ''indirect discharger.''

Direct discharger. A facility that discharges treated or untreated wastewaters into waters of the U.S.

DOE. Department of Energy.

Dry bottom ash handling system. A system that does not use water as the transport medium to convey bottom ash away from the boiler. It includes systems that collect and convey the ash without any use of water, as well as systems in which bottom ash is quenched in a water bath and then mechanically or pneumatically conveyed away from the boiler. Dry bottom ash handling systems do not include wet sluicing systems (such as remote MDS or complete recycle systems).

Dry fly ash handling system. A system that does not use water as the transport medium to convey fly ash away from particulate collection equipment.

Effluent limitation. Under CWA section 502(11), any restriction, including schedules of compliance, established by a state or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.

EIA. Energy Information Administration.

ELGs. Effluent limitations guidelines and standards.

EO. Executive Order.

EPA. U.S. Environmental Protection Agency.

ESP. Electrostatic precipitator.

Facility. Any NPDES ''point source'' or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

FGD. Flue gas desulfurization.

FGD Wastewater. Wastewater generated specifically from the wet flue gas desulfurization scrubber system that comes into contact with the flue gas or the FGD solids, including but not limited to, the blowdown or purge from the FGD scrubber system, overflow or underflow from the solids separation process, FGD solids wash water, and the filtrate from the solids dewatering process. Wastewater generated from cleaning the FGD scrubber, cleaning FGD solids separation equipment, cleaning FGD solids dewatering equipment, or that is collected in floor drains in the FGD process area is not considered FGD wastewater.

FGD gypsum. Gypsum generated specifically from the wet FGD scrubber system, including any solids separation or solids dewatering processes.

FGMC. Flue gas mercury control.

FGMC System. An air pollution control system installed or operated for the purpose of removing mercury from flue gas.

Flue Gas Mercury Control Wastewater. Wastewater generated from an air pollution control system installed or operated for the purpose of removing mercury from flue gas. This includes fly ash collection systems when the particulate control system follows sorbent injection or other controls to remove mercury from flue gas. FGD wastewater generated at plants using oxidizing agents to remove mercury in the FGD system and not in a separate FGMC system is not included in this definition.

Fly Ash. The ash that is carried out of the furnace by a gas stream and collected by a capture device such as a mechanical precipitator, electrostatic precipitator, and/or fabric filter. Economizer ash is included in this definition when it is collected with fly ash. Ash is not included in this definition when it is collected in wet scrubber air pollution control systems whose primary purpose is particulate removal.

Gasification Wastewater. Any wastewater generated at an integrated gasification combined cycle operation from the gasifier or the syngas cleaning, combustion, and cooling processes. Gasification wastewater includes, but is not limited to the following: Sour/grey water; CO_2/steam stripper wastewater; sulfur recovery unit blowdown, and wastewater resulting from slag handling or fly ash handling, particulate removal, halogen removal, or trace organic removal. Air separation unit blowdown, noncontact cooling water, and runoff from fuel and/or byproduct piles are not considered gasification wastewater. Wastewater that is collected intermittently in floor drains in the gasification process areas from leaks, spills and cleaning occurring during normal operation of the gasification operation is not considered gasification wastewater.

Ground water. Water that is found in the saturated part of the ground underneath the land surface.

IGCC. Integrated gasification combined cycle.

Indirect discharge. Wastewater discharged or otherwise introduced to a POTW.

IPM. Integrated Planning Model.

Landfill. A disposal facility or part of a facility where solid waste, sludges, or other process residuals are placed in or on any natural or manmade formation in the earth for disposal and which is not a storage pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome or salt bed formation, an underground mine, a cave, or a corrective action management unit.

Low Volume Waste Sources. Taken collectively as if from one source, wastewater from all sources except those for which specific limitations or standards are otherwise established in this part. Low volume waste sources include, but are not limited to, the following: Wastewaters from ion exchange water treatment systems, water treatment evaporator blowdown, laboratory and sampling streams, boiler blowdown, floor drains, cooling tower basin cleaning wastes, recirculating house service water systems, and wet scrubber air pollution control systems whose primary purpose is particulate removal. Sanitary wastes, air conditioning wastes, and wastewater from carbon capture or sequestration systems are not included in this definition.

MDS. Mechanical drag system.

Mechanical drag system. Bottom ash handling system that collects bottom ash from the bottom of the boiler in a water-filled trough. The water bath in the trough quenches the hot bottom ash as it falls from the boiler and seals the boiler gases. A drag chain operates in a continuous loop to drag bottom ash from the water trough up an incline, which dewaters the bottom ash by gravity, draining the water back to the trough as the bottom ash moves upward. The dewatered bottom ash is often conveyed to a nearby collection area, such as a small bunker outside the boiler building, from which it is loaded onto trucks and either sold or transported to a landfill. The MDS is considered a dry bottom ash handling system because the ash transport mechanism is mechanical removal by the drag chain, not the water.

Metal cleaning wastes. Any wastewater resulting from cleaning [with or without chemical cleaning compounds] any metal process equipment including, but not limited to, boiler tube cleaning, boiler fireside cleaning, and air preheater cleaning.

Mortality. Death rate or proportion of deaths in a population.

NAICS. North American Industry Classification System.

NPDES. National Pollutant Discharge Elimination System.

NSPS. New Source Performance Standards.

Oil-fired unit. A generating unit that uses oil as the primary or secondary fuel source and does not use a gasification process or any coal or petroleum coke as a fuel source. This definition does not include units that use oil only for start up or flame-stabilization purposes.

ORCR. Office of Resource Conservation and Recovery.

Point source. Any discernable, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged. The term does not include agricultural stormwater discharges or return flows from irrigated agriculture. See CWA section 502(14), 33 U.S.C. 1362(14); 40 CFR 122.2.

POTW. Publicly owned treatment works. See CWA section 212, 33 U.S.C. 1292; 40 CFR 122.2, 403.3

Primary particulate collection system. The first place in the process where fly ash is collected, such as collection at an ESP or

baghouse. For example, a coal combustion particulate collection system may include multiple steps including a primary particulate collection step such as ESP followed by other processes such as a fabric filter which would constitute a secondary particulate collection system.

PSES. Pretreatment Standards for Existing Sources.

PSNS. Pretreatment Standards for New Sources.

Publicly Owned Treatment Works. Any device or system, owned by a state or municipality, used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature that is owned by a state or municipality. This includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment. See CWA section 212, 33 U.S.C. 1292; 40 CFR 122.2, 403.3.

RCRA. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*

Remote MDS. Bottom ash handling system that collects bottom ash at the bottom of the boiler, then uses transport water to sluice the ash to a remote MDS that dewaters bottom ash using a similar configuration as the MDS. The remote MDS is considered a wet bottom ash handling system because the ash transport mechanism is water.

RFA. Regulatory Flexibility Act.

SBA. Small Business Administration.

Sediment. Particulate matter lying below water.

Steam electric power plant wastewater. Wastewaters associated with or resulting from the combustion process, including ash transport water from coal-, petroleum coke-, or oil-fired units; air pollution control wastewater (*e.g.,* FGD wastewater, FGMC wastewater, carbon capture wastewater); and leachate from landfills or surface impoundments containing combustion residuals.

Surface water. All waters of the United States, including rivers, streams, lakes, reservoirs, and seas.

Toxic pollutants. As identified under the CWA, 65 pollutants and classes of pollutants, of which 126 specific substances have been designated priority toxic pollutants. See appendix A to 40 CFR part 423.

Transport water. Wastewater that is used to convey fly ash, bottom ash, or economizer ash from the ash collection or storage equipment, or boiler, and has direct contact with the ash. Transport water does not include low volume, short duration discharges of wastewater from minor leaks (*e.g.,* leaks from valve packing, pipe flanges, or piping) or minor maintenance events (*e.g.,* replacement of valves or pipe sections).

UMRA. Unfunded Mandates Reform Act.

Wet bottom ash handling system. A system in which bottom ash is conveyed away from the boiler using water as a transport medium. Wet bottom ash systems typically send the ash slurry to dewatering bins or a surface impoundment. Wet bottom ash handling systems include systems that operate in conjunction with a traditional wet sluicing system to recycle all bottom ash transport water (remote MDS or complete recycle system).

Wet FGD system. Wet FGD systems capture sulfur dioxide from the flue gas using a sorbent that has mixed with water to form a wet slurry, and that generates a water stream that exits the FGD scrubber absorber.

Wet fly ash handling system. A system that conveys fly ash away from particulate removal equipment using water as a transport medium. Wet fly ash systems typically dispose of the ash slurry in a surface impoundment.

List of Subjects in 40 CFR Part 423

Environmental protection, Electric power generation, Power plants, Waste treatment and disposal, Water pollution control.

Dated: September 30, 2015.

Gina McCarthy,

Administrator.

Therefore, 40 CFR Chapter I is amended as follows:

PART 423—STEAM ELECTRIC POWER GENERATING POINT SOURCE CATEGORY

■ 1. The authority citation for part 423 is revised to read as follows:

Authority: Secs. 101; 301; 304(b), (c), (e), and (g); 306; 307; 308 and 501, Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, as amended; 33 U.S.C. 1251; 1311; 1314(b), (c), (e), and (g); 1316; 1317; 1318 and 1361).

■ 2. Section 423.10 is revised as follows:

§ 423.10 Applicability.

The provisions of this part apply to discharges resulting from the operation of a generating unit by an establishment whose generation of electricity is the predominant source of revenue or principal reason for operation, and whose generation of electricity results primarily from a process utilizing fossil-type fuel (coal, oil, or gas), fuel derived from fossil fuel (*e.g.,* petroleum coke, synthesis gas), or nuclear fuel in conjunction with a thermal cycle employing the steam water system as the thermodynamic medium. This part applies to discharges associated with both the combustion turbine and steam turbine portions of a combined cycle generating unit.

■ 3. Section 423.11 is amended by:

■ a. Revising paragraphs (b), (e), and (f).

■ b. Adding paragraphs (n) through (t).

The revisions and additions read as follows:

§ 423.11 Specialized definitions.

* * * * *

(b) The term low volume waste sources means, taken collectively as if from one source, wastewater from all sources except those for which specific limitations or standards are otherwise established in this part. Low volume waste sources include, but are not limited to, the following: Wastewaters from ion exchange water treatment systems, water treatment evaporator blowdown, laboratory and sampling streams, boiler blowdown, floor drains, cooling tower basin cleaning wastes, recirculating house service water systems, and wet scrubber air pollution control systems whose primary purpose is particulate removal. Sanitary wastes, air conditioning wastes, and wastewater from carbon capture or sequestration systems are not included in this definition.

* * * * *

(e) The term fly ash means the ash that is carried out of the furnace by a gas stream and collected by a capture device such as a mechanical precipitator, electrostatic precipitator, or fabric filter. Economizer ash is included in this definition when it is collected with fly ash. Ash is not included in this definition when it is collected in wet scrubber air pollution control systems whose primary purpose is particulate removal.

(f) The term bottom ash means the ash, including boiler slag, which settles in the furnace or is dislodged from furnace walls. Economizer ash is included in this definition when it is collected with bottom ash.

* * * * *

(n) The term flue gas desulfurization (FGD) wastewater means any wastewater generated specifically from the wet flue gas desulfurization scrubber system that comes into contact with the flue gas or the FGD solids, including but not limited to, the blowdown from the FGD scrubber system, overflow or underflow from the solids separation process, FGD solids wash water, and the filtrate from the solids dewatering process. Wastewater generated from cleaning the FGD scrubber, cleaning FGD solids separation equipment, cleaning FGD solids dewatering equipment, or that is collected in floor drains in the FGD process area is not considered FGD wastewater.

(o) The term flue gas mercury control wastewater means any wastewater generated from an air pollution control system installed or operated for the purpose of removing mercury from flue gas. This includes fly ash collection systems when the particulate control system follows sorbent injection or other controls to remove mercury from flue gas. FGD wastewater generated at plants using oxidizing agents to remove mercury in the FGD system and not in a separate FGMC system is not included in this definition.

(p) The term transport water means any wastewater that is used to convey fly ash, bottom ash, or economizer ash from the ash collection or storage equipment, or boiler, and has direct contact with the ash. Transport water does not include low volume, short duration discharges of wastewater from minor leaks (*e.g.,* leaks from valve packing, pipe flanges, or piping) or minor maintenance events (*e.g.,* replacement of valves or pipe sections).

(q) The term gasification wastewater means any wastewater generated at an integrated gasification combined cycle operation from the gasifier or the syngas cleaning, combustion, and cooling processes. Gasification wastewater includes, but is not limited to the following: Sour/grey water; CO_2/steam stripper wastewater; sulfur recovery unit blowdown, and wastewater resulting from slag handling or fly ash handling, particulate removal, halogen removal, or trace organic removal. Air separation unit blowdown, noncontact cooling water, and runoff from fuel and/or byproduct piles are not considered gasification wastewater. Wastewater that is collected intermittently in floor drains in the gasification process area from leaks, spills, and cleaning occurring during normal operation of the gasification operation is not considered gasification wastewater.

(r) The term combustion residual leachate means leachate from landfills or surface impoundments containing combustion residuals. Leachate is composed of liquid, including any suspended or dissolved constituents in the liquid, that has percolated through waste or other materials emplaced in a landfill, or that passes through the surface impoundment's containment structure (*e.g.,* bottom, dikes, berms). Combustion residual leachate includes seepage and/or leakage from a combustion residual landfill or impoundment unit. Combustion residual leachate includes wastewater from landfills and surface impoundments located on non-adjoining property when under the operational control of the permitted facility.

(s) The term oil-fired unit means a generating unit that uses oil as the primary or secondary fuel source and does not use a gasification process or any coal or petroleum coke as a fuel source. This definition does not include units that use oil only for start up or flame-stabilization purposes.

(t) The phrase ''as soon as possible'' means November 1, 2018, unless the permitting authority establishes a later date, after receiving information from the discharger, which reflects a consideration of the following factors:

(1) Time to expeditiously plan (including to raise capital), design, procure, and install equipment to comply with the requirements of this part.

(2) Changes being made or planned at the plant in response to:

(i) New source performance standards for greenhouse gases from new fossil fuel-fired electric generating units, under sections 111, 301, 302, and 307(d)(1)(C) of the Clean Air Act, as amended, 42 U.S.C. 7411, 7601, 7602, 7607(d)(1)(C);

(ii) Emission guidelines for greenhouse gases from existing fossil fuel-fired electric generating units, under sections 111, 301, 302, and 307(d) of the Clean Air Act, as amended, 42 U.S.C. 7411, 7601, 7602, 7607(d); or

(iii) Regulations that address the disposal of coal combustion residuals as solid waste, under sections 1006(b), 1008(a), 2002(a), 3001, 4004, and 4005(a) of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6906(b), 6907(a), 6912(a), 6944, and 6945(a).

(3) For FGD wastewater requirements only, an initial commissioning period for the treatment system to optimize the installed equipment.

■ (4) Other factors as appropriate.

■ 4. Section 423.12 is amended by:

■ a. Revising paragraphs (b)(11) and (12).

■ b. Adding paragraph (b)(13).

The revisions and addition read as follows:

§ 423.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

* * * * *

(b) * * *

(11) The quantity of pollutants discharged in FGD wastewater, flue gas mercury control wastewater, combustion residual leachate, or gasification wastewater shall not exceed the quantity determined by multiplying the flow of the applicable wastewater times the concentration listed in the following table:

Pollutant or pollutant property	BPT Effluent limitations	
	Maximum for any 1 day (mg/l)	Average of daily values for 30 consecutive days shall not exceed (mg/l)
TSS	100.0	30.0
Oil and grease	20.0	15.0

(12) At the permitting authority's discretion, the quantity of pollutant allowed to be discharged may be expressed as a concentration limitation instead of the mass-based limitations specified in paragraphs (b)(3) through (b)(7), and (b)(11), of this section. Concentration limitations shall be those concentrations specified in this section.

(13) In the event that wastestreams from various sources are combined for treatment or discharge, the quantity of each pollutant or pollutant property controlled in paragraphs (b)(1) through (b)(12) of this section attributable to each controlled waste source shall not exceed the specified limitations for that waste source.

■ 5. Section 423.13 is amended by:

■ a. Revising paragraphs (g) and (h).

■ b. Adding paragraphs (i) through (n).

The revisions and additions read as follows:

§ 423.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * *

(g)(1)(i) *FGD wastewater.* Except for those discharges to which paragraph (g)(2) or (g)(3) of this section applies, the quantity of pollutants in FGD wastewater shall not exceed the quantity determined by multiplying the flow of FGD wastewater times the concentration listed in the table

following this paragraph (g)(1)(i). Dischargers must meet the effluent limitations for FGD wastewater in this paragraph by a date determined by the permitting authority that is as soon as possible beginning November 1, 2018, but no later than December 31, 2023. These effluent limitations apply to the discharge of FGD wastewater generated on and after the date determined by the permitting authority for meeting the effluent limitations, as specified in this paragraph.

Pollutant or pollutant property	BAT Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Arsenic, total (ug/L)	11	8
Mercury, total (ng/L)	788	356
Selenium, total (ug/L)	23	12
Nitrate/nitrite as N (mg/L)	17.0	4.4

(ii) For FGD wastewater generated before the date determined by the permitting authority, as specified in paragraph (g)(1)(i), the quantity of pollutants discharged in FGD wastewater shall not exceed the quantity determined by multiplying the flow of FGD wastewater times the concentration listed for TSS in § 423.12(b)(11).

(2) For any electric generating unit with a total nameplate capacity of less than or equal to 50 megawatts or that is an oil-fired unit, the quantity of pollutants discharged in FGD wastewater shall not exceed the quantity determined by multiplying the flow of FGD wastewater times the concentration listed for TSS in § 423.12(b)(11).

(3)(i) For dischargers who voluntarily choose to meet the effluent limitations for FGD wastewater in this paragraph, the quantity of pollutants in FGD wastewater shall not exceed the quantity determined by multiplying the flow of FGD wastewater times the concentration listed in the table following this paragraph (g)(3)(i). Dischargers who choose to meet the effluent limitations for FGD wastewater in this paragraph must meet such limitations by December 31, 2023. These effluent limitations apply to the discharge of FGD wastewater generated on and after December 31, 2023.

Pollutant or pollutant property	BAT Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Arsenic, total (ug/L)	4	.....
Mercury, total (ng/L)	39	24
Selenium, total (ug/L)	5	.....
TDS (mg/L)	50	24

(ii) For discharges of FGD wastewater generated before December 31, 2023, the quantity of pollutants discharged in FGD wastewater shall not exceed the quantity determined by multiplying the flow of FGD wastewater times the concentration listed for TSS in § 423.12(b)(11).

(h)(1)(i) *Fly ash transport water.* Except for those discharges to which paragraph (h)(2) of this section applies, or when the fly ash transport water is used in the FGD scrubber, there shall be no discharge of pollutants in fly ash transport water. Dischargers must meet the discharge limitation in this paragraph by a date determined by the permitting authority that is as soon as possible beginning November 1, 2018, but no later than December 31, 2023. This limitation applies to the discharge of fly ash transport water generated on and after the date determined by the permitting authority for meeting the discharge limitation, as specified in this paragraph. Whenever fly ash transport water is used in any other plant process or is sent to a treatment system at the plant (except when it is used in the FGD scrubber), the resulting effluent must comply with the discharge limitation in this paragraph. When the fly ash transport water is used in the FGD scrubber, the quantity of pollutants in fly ash transport water shall not exceed the quantity determined by multiplying the flow of fly ash transport water times the concentration listed in the table in paragraph (g)(1)(i) of this section.

(ii) For discharges of fly ash transport water generated before the date determined by the permitting authority, as specified in paragraph (h)(1)(i) of this section, the quantity of pollutants discharged in fly ash transport water shall not exceed the quantity determined by multiplying the flow of fly ash transport water times the concentration listed for TSS in § 423.12(b)(4).

(2) For any electric generating unit with a total nameplate generating capacity of less than or equal to 50 megawatts or that is an oil-fired unit, the quantity of pollutants discharged in fly ash transport water shall not exceed the quantity determined by multiplying the flow of fly ash transport water times the concentration listed for TSS in § 423.12(b)(4).

(i)(1)(i) *Flue gas mercury control wastewater.* Except for those discharges to which paragraph (i)(2) of this section applies, there shall be no discharge of pollutants in flue gas mercury control wastewater. Dischargers must meet the discharge limitation in this paragraph by a date determined by the permitting authority that is as soon as possible beginning November 1, 2018, but no later than December 31, 2023. This limitation applies to the discharge of flue gas mercury control wastewater generated on and after the date determined by the permitting authority for meeting the discharge limitation, as specified in this paragraph. Whenever flue gas mercury control wastewater is

used in any other plant process or is sent to a treatment system at the plant, the resulting effluent must comply with the discharge limitation in this paragraph.

(ii) For discharges of flue gas mercury control wastewater generated before the date determined by the permitting authority, as specified in paragraph (i)(1)(i) of this section, the quantity of pollutants discharged in flue gas mercury control wastewater shall not exceed the quantity determined by multiplying the flow of flue gas mercury control wastewater times the concentration for TSS listed in § 423.12(b)(11).

(2) For any electric generating unit with a total nameplate generating capacity of less than or equal to 50 megawatts or that is an oil-fired unit, the quantity of pollutants discharged in flue gas mercury control wastewater shall not exceed the quantity determined by multiplying the flow of flue gas mercury control wastewater times the concentration for TSS listed in § 423.12(b)(11).

(j)(1)(i) *Gasification wastewater.* Except for those discharges to which paragraph (j)(2) of this section applies, the quantity of pollutants in gasification wastewater shall not exceed the quantity determined by multiplying the flow of gasification wastewater times the concentration listed in the table following this paragraph (j)(1)(i). Dischargers must meet the effluent limitations in this paragraph by a date determined by the permitting authority that is as soon as possible beginning November 1, 2018, but no later than December 31, 2023. These effluent limitations apply to the discharge of gasification wastewater generated on and after the date determined by the permitting authority for meeting the effluent limitations, as specified in this paragraph.

Pollutant or pollutant property	BAT Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Arsenic, total (ug/L)	4	
Mercury, total (ng/L)	1.8	1.3
Selenium, total (ug/L)	453	227
Total dissolved solids (mg/L)	38	22

(ii) For discharges of gasification wastewater generated before the date determined by the permitting authority, as specified in paragraph (j)(1)(i) of this section, the quantity of pollutants discharged in gasification wastewater shall not exceed the quantity determined by multiplying the flow of gasification wastewater times the concentration for TSS listed in § 423.12(b)(11).

(2) For any electric generating unit with a total nameplate generating capacity of less than or equal to 50 megawatts or that is an oil-fired unit, the quantity of pollutants discharged in gasification wastewater shall not exceed the quantity determined by multiplying the flow of gasification wastewater times the concentration listed for TSS in § 423.12(b)(11).

(k)(1)(i) *Bottom ash transport water.* Except for those discharges to which paragraph (k)(2) of this section applies, or when the bottom ash transport water is used in the FGD scrubber, there shall be no discharge of pollutants in bottom ash transport water. Dischargers must meet the discharge limitation in this paragraph by a date determined by the permitting authority that is as soon as possible beginning November 1, 2018, but no later than December 31, 2023. This limitation applies to the discharge of bottom ash transport water generated on and after the date determined by the permitting authority for meeting the discharge limitation, as specified in this paragraph. Whenever bottom ash transport water is used in any other plant process or is sent to a treatment system at the plant (except when it is used in the FGD scrubber), the resulting effluent must comply with the discharge limitation in this paragraph. When the bottom ash transport water is used in the FGD scrubber, the quantity of pollutants in bottom ash transport water shall not exceed the quantity determined by multiplying the flow of bottom ash transport water times the concentration listed in the table in paragraph (g)(1)(i) of this section.

(ii) For discharges of bottom ash transport water generated before the date determined by the permitting authority, as specified in paragraph (k)(1)(i) of this section, the quantity of pollutants discharged in bottom ash transport water shall not exceed the quantity determined by multiplying the flow of bottom ash transport water times the concentration for TSS listed in § 423.12(b)(4).

(2) For any electric generating unit with a total nameplate generating capacity of less than or equal to 50 megawatts or that is an oil-fired unit, the quantity of pollutants discharged in bottom ash transport water shall not exceed the quantity determined by multiplying the flow of the applicable wastewater times the concentration for TSS listed in § 423.12(b)(4).

(l) *Combustion residual leachate.* The quantity of pollutants discharged in combustion residual leachate shall not exceed the quantity determined by multiplying the flow of combustion residual leachate times the concentration for TSS listed in § 423.12(b)(11).

(m) At the permitting authority's discretion, the quantity of pollutant allowed to be discharged may be expressed as a concentration limitation instead of any mass based limitations specified in paragraphs (b) through (l) of this section. Concentration limitations shall be those concentrations specified in this section.

(n) In the event that wastestreams from various sources are combined for treatment or discharge, the quantity of each pollutant or pollutant property controlled in paragraphs (a) through (m) of this section attributable to each controlled waste source shall not exceed the specified limitation for that waste source.

■ 6. Section 423.15 is revised to read as follows:

§ 423.15 New source performance standards (NSPS).

(a) *1982 NSPS.* Any new source as of November 19, 1982, subject to paragraph (a) of this section, must achieve the following new source performance standards, in addition to the limitations in § 423.13 of this part, established on November 3, 2015. In the case of conflict, the more stringent requirements apply:

(1) *pH.* The pH of all discharges, except once through cooling water, shall be within the range of 6.0–9.0.

(2) *PCBs.* There shall be no discharge of polychlorinated biphenyl compounds such as those commonly used for transformer fluid.

(3) *Low volume waste sources, FGD wastewater, flue gas mercury control wastewater, combustion residual leachate, and gasification wastewater.* The quantity of pollutants discharged in low volume waste sources, FGD wastewater, flue gas mercury control wastewater, combustion residual leachate, and gasification wastewater shall not exceed the quantity determined by multiplying the flow of low volume waste sources times the concentration listed in the following table:

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day (mg/l)	Average of daily values for 30 consecutive days shall not exceed (mg/l)
TSS	100.0	30.0
Oil and grease	20.0	15.0

(4) *Chemical metal cleaning wastes.* The quantity of pollutants discharged in chemical metal cleaning wastes shall not exceed the quantity determined by multiplying the flow of chemical metal cleaning wastes times the concentration listed in the following table:

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day (mg/l)	Average of daily values for 30 consecutive days shall not exceed (mg/l)
TSS	100.0	30.0
Oil and grease	20.0	15.0
Copper, total	1.0	1.0
Iron, total	1.0	1.0

(5) [Reserved]

(6) *Bottom ash transport water.* The quantity of pollutants discharged in bottom ash transport water shall not exceed the quantity determined by multiplying the flow of the bottom ash transport water times the concentration listed in the following table:

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day (mg/l)	Average of daily values for 30 consecutive days shall not exceed (mg/l)
TSS	100.0	30.0
Oil and grease	20.0	15.0

(7) *Fly ash transport water.* There shall be no discharge of pollutants in fly ash transport water.

(8)(i) *Once through cooling water.* For any plant with a total rated electric generating capacity of 25 or more megawatts, the quantity of pollutants discharged in once through cooling water from each discharge point shall not exceed the quantity determined by multiplying the flow of once through cooling water from each discharge point times the concentration listed in the following table:

Pollutant or pollutant property	NSPS
	Maximum concentrations (mg/l)
Total residual chlorine	0.20

(ii) Total residual chlorine may only be discharged from any single generating unit for more than two hours per day when the discharger demonstrates to the permitting authority that discharge for more than two hours is required for macroinvertebrate control. Simultaneous multi-unit chlorination is permitted.

(9)(i) *Once through cooling water.* For any plant with a total rated generating capacity of less than 25 megawatts, the quantity of pollutants discharged in once through cooling water shall not exceed the quantity determined by multiplying the flow of once through cooling water sources times the

concentration listed in the following table:

Pollutant or pollutant property	NSPS	
	Maximum concentration (mg/l)	Average concentration (mg/l)
Free available chlorine	0.5	0.2

(ii) Neither free available chlorine nor total residual chlorine may be discharged from any unit for more than two hours in any one day and not more than one unit in any plant may discharge free available or total residual chlorine at any one time unless the utility can demonstrate to the Regional Administrator or state, if the state has NPDES permit issuing authority, that the units in a particular location cannot operate at or below this level of chlorination.

(10)(i) *Cooling tower blowdown.* The quantity of pollutants discharged in cooling tower blowdown shall not exceed the quantity determined by multiplying the flow of cooling tower blowdown times the concentration listed below:

Pollutant or pollutant property	NSPS	
	Maximum concentration (mg/l)	Average concentration (mg/l)
Free available chlorine	0.5	0.2

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day (mg/l)	Average of daily values for 30 consecutive days shall not exceed (mg/l)
The 126 priority pollutants (appendix A) contained in chemicals added for cooling tower maintenance, except:	([1])	([1])
Chromium, total	0.2	0.2
zinc, total	1.0	1.0

[1] No detectable amount.

(ii) Neither free available chlorine nor total residual chlorine may be discharged from any unit for more than two hours in any one day and not more than one unit in any plant may discharge free available or total residual chlorine at any one time unless the utility can demonstrate to the Regional Administrator or state, if the state has NPDES permit issuing authority, that the units in a particular location cannot operate at or below this level of chlorination.

(iii) At the permitting authority's discretion, instead of the monitoring in 40 CFR 122.11(b), compliance with the standards for the 126 priority pollutants in paragraph (a)(10)(i) of this section may be determined by engineering calculations which demonstrate that the regulated pollutants are not detectable in the final discharge by the analytical methods in 40 CFR part 136.

(11) *Coal pile runoff.* Subject to the provisions of paragraph (a)(12) of this section, the quantity or quality of pollutants or pollutant parameters discharged in coal pile runoff shall not exceed the standards specified below:

Pollutant or pollutant property	NSPS for any time
TSS	not to exceed 50 mg/l.

(12) *Coal pile runoff.* Any untreated overflow from facilities designed, constructed, and operated to treat the coal pile runoff which results from a 10 year, 24 hour rainfall event shall not be subject to the standards in paragraph (a)(11) of this section.

(13) At the permitting authority's discretion, the quantity of pollutant allowed to be discharged may be expressed as a concentration limitation instead of any mass based limitations specified in paragraphs (a)(3) through (10) of this section. Concentration limits shall be based on the concentrations specified in this section.

(14) In the event that wastestreams from various sources are combined for treatment or discharge, the quantity of each pollutant or pollutant property controlled in paragraphs (a)(1) through (13) of this section attributable to each controlled waste source shall not exceed the specified limitation for that waste source.

(b) *2015 NSPS.* Any new source as of November 17, 2015, subject to paragraph (b) of this section, must achieve the following new source performance standards:

(1) *pH.* The pH of all discharges, except once through cooling water, shall be within the range of 6.0–9.0.

(2) *PCBs.* There shall be no discharge of polychlorinated biphenyl compounds such as those commonly used for transformer fluid.

(3) *Low volume waste sources.* The quantity of pollutants discharged from low volume waste sources shall not exceed the quantity determined by multiplying the flow of low volume waste sources times the concentration listed in the following table:

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day (mg/l)	Average of daily values for 30 consecutive days shall not exceed (mg/l)
TSS	100.0	30.0
Oil and grease	20.0	15.0

(4) *Chemical metal cleaning wastes.* The quantity of pollutants discharged in chemical metal cleaning wastes shall not exceed the quantity determined by multiplying the flow of chemical metal cleaning wastes times the concentration listed in the following table:

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day (mg/l)	Average of daily values for 30 consecutive days shall not exceed (mg/l)
TSS	100.0	30.0
Oil and grease	20.0	15.0
Copper, total	1.0	1.0
Iron, total	1.0	1.0

(5) [Reserved]

(6) *Bottom ash transport water.* There shall be no discharge of pollutants in bottom ash transport water. Whenever bottom ash transport water is used in any other plant process or is sent to a treatment system at the plant, the resulting effluent must comply with the discharge standard in this paragraph.

(7) *Fly ash transport water.* There shall be no discharge of pollutants in fly ash transport water. Whenever fly ash transport water is used in any other plant process or is sent to a treatment system at the plant, the resulting effluent must comply with the discharge standard in this paragraph.

(8)(i) *Once through cooling water.* For any plant with a total rated electric generating capacity of 25 or more megawatts, the quantity of pollutants discharged in once through cooling water from each discharge point shall not exceed the quantity determined by multiplying the flow of once through cooling water from each discharge point times the concentration listed in the following table:

Pollutant or pollutant property	NSPS
	Maximum concentration (mg/l)
Total residual chlorine	0.20

(ii) Total residual chlorine may only be discharged from any single generating unit for more than two hours per day when the discharger demonstrates to the permitting authority that discharge for more than two hours is required for macroinvertebrate control. Simultaneous multi-unit chlorination is permitted.

(9)(i) *Once through cooling water.* For any plant with a total rated generating capacity of less than 25 megawatts, the quantity of pollutants discharged in once through cooling water shall not exceed the quantity determined by multiplying the flow of once through cooling water sources times the concentration listed in the following table:

Pollutant or pollutant property	NSPS	
	Maximum concentration (mg/l)	Average concentration (mg/l)
Free available chlorine	0.5	0.2

(ii) Neither free available chlorine nor total residual chlorine may be discharged from any unit for more than two hours in any one day and not more than one unit in any plant may discharge free available or total residual chlorine at any one time unless the utility can demonstrate to the Regional Administrator or state, if the state has NPDES permit issuing authority, that the units in a particular location cannot operate at or below this level of chlorination.

(10)(i) *Cooling tower blowdown.* The quantity of pollutants discharged in cooling tower blowdown shall not exceed the quantity determined by multiplying the flow of cooling tower blowdown times the concentration listed below:

Pollutant or pollutant property	NSPS	
	Maximum concentration (mg/l)	Average concentration (mg/l)
Free available chlorine	0.5	0.2

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day (mg/l)	Average of daily values for 30 consecutive days shall not exceed (mg/l)
The 126 priority pollutants (appendix A) contained in chemicals added for cooling tower maintenance, except:	[1]	[1]
Chromium, total	0.2	0.2
zinc, total	1.0	1.0

[1] No detectable amount.

(ii) Neither free available chlorine nor total residual chlorine may be discharged from any unit for more than two hours in any one day and not more than one unit in any plant may discharge free available or total residual chlorine at any one time unless the utility can demonstrate to the Regional Administrator or state, if the state has NPDES permit issuing authority, that the units in a particular location cannot operate at or below this level of chlorination.

(iii) At the permitting authority's discretion, instead of the monitoring in 40 CFR 122.11(b), compliance with the standards for the 126 priority pollutants in paragraph (b)(10)(i) of this section may be determined by engineering calculations demonstrating that the regulated pollutants are not detectable in the final discharge by the analytical methods in 40 CFR part 136.

(11) *Coal pile runoff.* Subject to the provisions of paragraph (b)(12) of this section, the quantity or quality of pollutants or pollutant parameters discharged in coal pile runoff shall not exceed the standards specified below:

Pollutant or pollutant property	NSPS for any time
TSS	not to exceed 50 mg/l.

(12) *Coal pile runoff.* Any untreated overflow from facilities designed, constructed, and operated to treat the coal pile runoff which results from a 10 year, 24 hour rainfall event shall not be subject to the standards in paragraph (b)(11) of this section.

(13) *FGD wastewater.* The quantity of pollutants discharged in FGD wastewater shall not exceed the quantity determined by multiplying the flow of FGD wastewater times the concentration listed in the following table:

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Arsenic, total (ug/L)	4	
Mercury, total (ng/L)	39	24
Selenium, total (ug/L)	5	
TDS (mg/L)	50	24

(14) *Flue gas mercury control wastewater.* There shall be no discharge of pollutants in flue gas mercury control wastewater. Whenever flue gas mercury control wastewater is used in any other plant process or is sent to a treatment system at the plant, the resulting effluent must comply with the discharge standard in this paragraph.

(15) *Gasification wastewater.* The quantity of pollutants discharged in gasification wastewater shall not exceed the quantity determined by multiplying the flow of gasification wastewater times the concentration listed in the following table:

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Arsenic, total (ug/L)	4	
Mercury, total (ng/L)	1.8	1.3
Selenium, total (ug/L)	453	227
Total dissolved solids (mg/L)	38	22

(16) *Combustion residual leachate.* The quantity of pollutants discharged in combustion residual leachate shall not exceed the quantity determined by multiplying the flow of combustion residual leachate times the concentration listed in the following table:

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Arsenic, total (ug/L)	11	8
Mercury, total (ng/L)	788	356

(17) At the permitting authority's discretion, the quantity of pollutant allowed to be discharged may be expressed as a concentration limitation instead of any mass based limitations specified in paragraphs (b)(3) through (16) of this section. Concentration limits shall be based on the concentrations specified in this section.

(18) In the event that wastestreams from various sources are combined for treatment or discharge, the quantity of each pollutant or pollutant property controlled in paragraphs (b)(1) through (16) of this section attributable to each controlled waste source shall not exceed the specified limitation for that waste source.

(The information collection requirements contained in paragraphs (a)(8)(ii), (a)(9)(ii), and (a)(10)(ii), (b)(8)(ii), (b)(9)(ii), and (b)(10)(ii) were approved by the Office of Management and Budget under control number 2040–0040. The information collection requirements contained in paragraphs (a)(10)(iii) and (b)(10)(iii) were approved under control number 2040–0033.)

■ 7. Section 423.16 is amended by adding paragraphs (e) through (i) to read as follows:

§ 423.16 Pretreatment standards for existing sources (PSES).

* * * * *

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Arsenic, total (ug/L)	11	8
Mercury, total (ng/L)	788	356
Selenium, total (ug/L)	23	12
Nitrate/nitrite as N (mg/L)	17.0	4.4

(e) *FGD wastewater.* For any electric generating unit with a total nameplate generating capacity of more than 50 megawatts and that is not an oil-fired unit, the quantity of pollutants in FGD wastewater shall not exceed the quantity determined by multiplying the flow of FGD wastewater times the concentration listed in the table following this paragraph (e). Dischargers must meet the standards in this paragraph by November 1, 2018. These standards apply to the discharge of FGD wastewater generated on and after November 1, 2018.

(f) *Fly ash transport water.* Except when the fly ash transport water is used in the FGD scrubber, for any electric generating unit with a total nameplate generating capacity of more than 50 megawatts and that is not an oil-fired unit, there shall be no discharge of pollutants in fly ash transport water. This standard applies to the discharge of fly ash transport water generated on and after November 1, 2018. Whenever fly ash transport water is used in any other plant process or is sent to a treatment system at the plant (except when it is used in the FGD scrubber), the resulting effluent must comply with the discharge standard in this paragraph. When the fly ash transport water is used in the FGD scrubber, the quantity of pollutants in fly ash transport water shall not exceed the quantity determined by multiplying the flow of fly ash transport water times the concentration listed in the table in paragraph (e) of this section.

(g) *Bottom ash transport water.* Except when the bottom ash transport water is used in the FGD scrubber, for any electric generating unit with a total nameplate generating capacity of more than 50 megawatts and that is not an oil-fired unit, there shall be no discharge of pollutants in bottom ash transport water. This standard applies to the discharge of bottom ash transport water generated on and after November 1, 2018. Whenever bottom ash transport water is used in any other plant process or is sent to a treatment system at the plant (except when it is used in the FGD scrubber), the resulting effluent must comply with the discharge standard in this paragraph. When the bottom ash transport water is used in the FGD scrubber, the quantity of pollutants in bottom ash transport water shall not exceed the quantity determined by multiplying the flow of bottom ash transport water times the concentration listed in the table in paragraph (e) of this section.

(h) *Flue gas mercury control wastewater.* For any electric generating unit with a total nameplate generating capacity of more than 50 megawatts and that is not an oil-fired unit, there shall be no discharge of pollutants in flue gas mercury control wastewater. This standard applies to the discharge of flue gas mercury control wastewater generated on and after November 1, 2018. Whenever flue gas mercury control wastewater is used in any other plant process or is sent to a treatment system at the plant, the resulting effluent must comply with the discharge standard in this paragraph.

(i) *Gasification wastewater.* For any electric generating unit with a total nameplate generating capacity of more than 50 megawatts and that is not an oil-fired unit, the quantity of pollutants in gasification wastewater shall not exceed

the quantity determined by multiplying the flow of gasification wastewater times the concentration listed in the table following this paragraph (i). Dischargers must meet the standards in this paragraph by November 1, 2018. These standards apply to the discharge of gasification wastewater generated on and after November 1, 2018.

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Arsenic, total (μg/L)	4	.....
Mercury, total (ng/L)	1.8	1.3
Selenium, total (μg/L)	453	227
Total dissolved solids (mg/L)	38	22

■ 8. Section 423.17 is revised to read as follows:

§ 423.17 Pretreatment standards for new sources (PSNS).

(a) *1982 PSNS.* Except as provided in 40 CFR 403.7, any new source as of October 14, 1980, subject to paragraph (a) of this section, which introduces pollutants into a publicly owned treatment works, must comply with 40 CFR part 403, the following pretreatment standards for new sources, and the PSES in § 423.16, established on November 3, 2015. In the case of conflict, the more stringent standards apply:

(1) *PCBs.* There shall be no discharge of polychlorinated biphenyl compounds such as those used for transformer fluid.

(2) *Chemical metal cleaning wastes.* The pollutants discharged in chemical metal cleaning wastes shall not exceed the concentration listed in the following table:

Pollutant or pollutant property	PSNS
	Maximum for any 1 day (mg/L)
Copper, total	1.0

(3) [Reserved]

(4)(i) *Cooling tower blowdown.* The pollutants discharged in cooling tower blowdown shall not exceed the concentration listed in the following table:

Pollutant or pollutant property	PSNS
	Maximum for any time (mg/L)
The 126 priority pollutants (appendix A) contained in chemicals added for cooling tower maintenance, except:	([1])
Chromium, total	0.2
zinc, total	1.0

[1] No detectable amount.

(ii) At the permitting authority's discretion, instead of the monitoring in 40 CFR 122.11(b), compliance with the standards for the 126 priority pollutants in paragraph (a)(4)(i) of this section may be determined by engineering calculations which demonstrate that the regulated pollutants are not detectable in the final discharge by the analytical methods in 40 CFR part 136.

(5) *Fly ash transport water.* There shall be no discharge of wastewater pollutants from fly ash transport water.

(b) *2015 PSNS.* Except as provided in 40 CFR 403.7, any new source as of June 7, 2013, subject to this paragraph (b), which introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and the following pretreatment standards for new sources:

(1) *PCBs.* There shall be no discharge of polychlorinated biphenyl compounds such as those used for transformer fluid.

(2) *Chemical metal cleaning wastes.* The pollutants discharged in chemical metal cleaning wastes shall not exceed the concentration listed in the following table:

Pollutant or pollutant property	PSNS
	Maximum for 1 day (mg/L)
Copper, total	1.0

(3) [Reserved]

(4)(i) *Cooling tower blowdown.* The pollutants discharged in cooling tower blowdown shall not exceed the concentration listed in the following table:

Pollutant or pollutant property	PSNS
	Maximum for any time (mg/L)
The 126 priority pollutants (appendix A) contained in chemicals added for cooling tower maintenance, except: ..	([1])
Chromium, total	0.2
zinc, total	1.0

[1] No detectable amount.

(ii) At the permitting authority's discretion, instead of the monitoring in 40 CFR 122.11(b), compliance with the standards for the 126 priority pollutants in paragraph (b)(4)(i) of this section may be determined by engineering calculations which demonstrate that the regulated pollutants are not detectable in the final discharge by the analytical methods in 40 CFR part 136.

(5) *Fly ash transport* water. There shall be no discharge of pollutants in fly ash transport water. Whenever fly ash transport water is used in any other plant process or is sent to a treatment system at the plant, the resulting effluent must comply with the discharge standard in this paragraph.

(6) *FGD wastewater.* The quantity of pollutants discharged in FGD wastewater shall not exceed the quantity determined by multiplying the flow of FGD wastewater times the concentration listed in the following table:

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Arsenic, total (μg/L)	4	.....
Mercury, total (ng/L)	39	24
Selenium, total (μg/L)	5	.....
TDS (mg/L)	50	24

(7) *Flue gas mercury control wastewater.* There shall be no discharge of pollutants in flue gas mercury control wastewater. Whenever flue gas mercury control wastewater is used in any other plant process or is sent to a treatment system at the plant, the resulting effluent must comply with the discharge standard in this paragraph.

(8) *Bottom ash transport water.* There shall be no discharge of pollutants in bottom ash transport water. Whenever bottom ash transport water is used in any other plant process or is sent to a treatment system at the plant, the resulting effluent must comply with the discharge standard in this paragraph.

(9) *Gasification wastewater.* The quantity of pollutants discharged in gasification wastewater shall not exceed the quantity determined by multiplying the flow of gasification wastewater times the concentration listed in the following table:

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Arsenic, total (μg/L)	4	.....
Mercury, total (ng/L)	1.8	1.3
Selenium, total (μg/L)	453	227
Total dissolved solids (mg/L)	38	22

(10) *Combustion residual leachate.* The quantity of pollutants discharged in combustion residual leachate shall not exceed the quantity determined by multiplying the flow of combustion residual leachate times the concentration listed in the following table:

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Arsenic, total (μg/L)	11	8
Mercury, total (ng/L)	788	356

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Part III

Postal Service

Change in Rates and Classes of General Applicability for Competitive Products; Notices

POSTAL SERVICE

Change in Rates and Classes 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 competitive products.

DATES: *Effective date:* January 17, 2016.

FOR FURTHER INFORMATION CONTACT: Daniel J. Foucheaux, Jr., 202–268–2989.

SUPPLEMENTARY INFORMATION: On September 17, 2015, pursuant to their authority under 39 U.S.C. 3632, the Governors of the Postal Service established prices and classification changes for competitive products. The Governors' Decision and the record of proceedings in connection with such decision are reprinted below in accordance with section 3632(b)(2).

Stanley F. Mires,

Attorney, Federal Compliance.

BILLING CODE 7710–12–P

DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON CHANGES IN RATES AND CLASSES OF GENERAL APPLICABILITY FOR COMPETITIVE PRODUCTS (GOVERNORS' DECISION NO. 15-1)

September 17, 2015

STATEMENT OF EXPLANATION AND JUSTIFICATION

Pursuant to our authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 ("PAEA"), we establish new prices of general applicability for the Postal Service's shipping services (competitive products), and such changes in classifications as are necessary to define the new prices. The changes are described generally below, with a detailed description of the changes in the attachment. The attachment includes the draft Mail Classification Schedule sections with classification changes in legislative format, and new prices displayed in the price charts.

As shown in the nonpublic annex being filed under seal herewith, the changes we 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)). We therefore find that the new prices and classification changes 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 15.6 percent increase. The existing structure of zoned Retail, Commercial Base, and Commercial Plus price categories is maintained. However, the Priority Mail Express Flat Rate Box will be eliminated because of insufficient volumes.

Retail prices will increase an average of 14.4 percent. The price for the Retail Flat Rate Envelope, Padded Flat Rate Envelope, and Legal Flat Rate Envelope, a significant portion of all Priority Mail Express volume, is increasing to $22.95.

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 17.7 percent on average. Commercial Base prices will be set at a flat 10 percent discount off of Retail prices.

The Commercial Plus price category has traditionally offered even lower prices to large-volume customers. New for January, Commercial Plus prices as a whole will receive a 48.2 percent increase in order to match these prices to Commercial Base. The Postal Service's long term goal is to eliminate the Commercial Plus category at some point in 2017 to reflect the industry standard of publishing only one set of commercial rate tables. Deeper discounting may still be made available to customers through negotiated service agreements.

B. Priority Mail

On average, the Priority Mail prices will be increased by 9.8 percent. The existing structure of Priority Mail Retail, Commercial Base, and Commercial Plus price categories is maintained. However, the Regional Rate Box C and Critical Mail will both be eliminated because of low customer usage.

Retail prices will increase an average of 8.6 percent. Retail Flat Rate Box prices will be: Small, $6.80; Medium, $13.45; Large, $18.75; and Large APO/FPO/DPO, $16.75. The regular Flat Rate Envelope will be priced at $6.45, with the Legal Size and Padded Flat Rate Envelopes priced at $6.45 and $6.80, respectively.

The Commercial Base price category offers lower prices to customers using authorized postage payment methods. The Commercial Base prices will increase 9.4 percent on average. Commercial Base prices will be set at a 13.9 percent discount off of Retail prices.

The Commercial Plus price category has traditionally offered even lower prices to large-volume customers. New for January, Commercial Plus prices as a whole will receive a 13.3 percent increase in order to bring these prices within three percent of Commercial Base prices. The Postal Service's long term goal is to eliminate the Commercial Plus category at some point in 2017 to reflect the industry standard of publishing only one set of commercial rate tables. Deeper discounting may still be made available to customers through negotiated service agreements.

C. Parcel Select

On average, prices for non-Lightweight Parcel Select, the Postal Service's bulk ground shipping product, will increase 3.1 percent. For destination entered parcels, the average price increase is 4.9 percent. For non-destination entered parcels, the average price increase is 1.9 percent. Prices for Parcel Select Lightweight will increase by 23.5 percent. Parcel Select Nonpresort will be rebranded as Parcel Select Ground, and will see a 1.9 percent price increase. Finally, the Parcel Select Origin Network Distribution Center (ONDC) Presort and Network Distribution Center (NDC) Presort price categories will be eliminated because of low customer demand, and in order to simplify product offerings.

D. Parcel Return Service

Parcel Return Service prices will have an overall price increase of 5.0 percent. Prices for parcels retrieved at a return Sectional Center Facility (RSCF) will increase by 5.0 percent, and prices for parcels picked up at a return delivery unit (RDU) will increase 5.0 percent. Return Network Distribution Center (RNDC) pricing will be eliminated because of low customer demand, and in order to simplify product offerings.

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 12.8 percent. To simplify the First-Class Package Service product, the 3-digit, 5-digit, and ADC presort levels will be eliminated. The 14, 15, and 15.999 ounce offerings that are currently only available as Commercial Plus will be consolidated into the Commercial Base price category, allowing the Commercial Plus price category to be eliminated, thereby streamlining the First-Class Package Service offering.

F. Standard Post, Renamed Retail Ground

Standard Post will be renamed Retail Ground beginning in January 2016, and prices will increase 10.0 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 3.6 percent in 2016. The retail counter enrollment fee will increase to $18.65. The online enrollment option, introduced in 2014, will now be available for $17.10. The weekly reshipment fee will increase to $18.65. Prices for Adult Signature service will increase to $5.70 for the basic service and $5.95 for the person-specific service. Adult Signature service for First-Class Mail will be limited to parcels only, to match current practice. Address Enhancement Service prices will be increasing between 1.9 and 7.1 percent depending on the particular rate element, to ensure adequate cost coverage. Competitive Post Office Box price ranges will be modified for 2016 for the first time, and prices will be increasing 3.5 percent on average, which is within the new price ranges. Package Intercept Service will increase 3.3 percent, to $12.55. The Pickup on demand fee will remain unchanged for 2016.

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 7.1 percent, and PMEI will be subject to an overall 11.6 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. In addition, prices for

PMEI Flat Rate Envelopes will be further separated into additional country groups. PMEI Flat Rate Boxes will be eliminated to be consistent with the elimination of the Priority Mail Express Flat Rate Box, and since it has low customer usage.

B. Priority Mail International

The overall increase for Priority Mail International (PMI) will be 10.2 percent. Commercial Plus prices will be equivalent to Commercial Base; however, deeper discounting may still be made available to customers through negotiated service agreements. In addition, prices for PMI flat rate envelopes and boxes will be further separated into additional country groups. Insurance will also be offered up to $200 for merchandise and $100 for documents in lieu of weight-based indemnity available under current international exchanges. A fee is also being established for the International Service Center (ISC) zone chart that is used to determine the applicable Origin Zone for PMI pieces destined to Canada. The PMI Regional Rate Box C will no longer be available for PMI Regional Rate Boxes Contracts or PMI Regional Rate Boxes – Non-Published Rates Contracts, to be consistent with the elimination of the Priority Mail Regional Rate Box C, and since it has low customer usage.

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 4.2 percent for IPA and 3.5 percent for IPA M-Bags, as well as 6.3 percent for ISAL and 5.3 percent for ISAL M-Bags.

D. Airmail M-Bags

The published prices for Airmail M-Bags will increase by 9.2 percent.

E. First-Class Package International Service™

The overall increase for First-Class Package International Service (FCPIS) prices will be 21.6 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 will be increased. International Postal Money Orders will increase by 5.6 percent. The International Money Order Inquiry Fee will increase by 3.5 percent. The International Money Transfer Service will increase between 3.3 to 3.7 percent, depending on the rate cell.

ORDER

The changes in prices and classes set forth herein shall be effective at 12:01 A.M. on January 17, 2016. We direct the Secretary to have this decision published in the *Federal Register* in accordance with 39 U.S.C. § 3632(b)(2). We also direct management to file with the Postal Regulatory Commission appropriate notice of these changes.

By The Governors:

/s/

Louis J. Giuliano
Chairman, Temporary Emergency Committee of the Board of Governors

PART B

COMPETITIVE PRODUCTS

2000 **COMPETITIVE PRODUCT LIST**

2100 **Domestic Products**

2100.1 Included Services

- Priority Mail Express (2105)
- Priority Mail (2110)
- Parcel Select (2115)
- Parcel Return Service (2120)
- First-Class Package Service (2125)
- ~~Standard Post~~ Retail Ground (2135)

2105 Priority Mail Express

* * *

2105.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	108 inches in combined length and girth			70 pounds
Flat Rate Envelopes ~~Flat Rate Boxes~~	Nominal Sizes: Regular: 9.5 x 12.5 inches Legal: 9.5 x 15 inches Padded: 9.5 x 12.5 inches ~~11 x 8.5 x 5.5 inches~~ ~~13.625 x 11.875 x 3.375 inches~~ ~~(approximately 0.35 cubic feet)~~			

* * *

2105.4 Price Categories

The following price categories are available for the product specified in this section:

- Retail
  - Zone/Weight – Prices are based on weight and zone
  - Flat Rate Envelopes – Envelope provided or approved by the Postal Service
  - ~~Flat Rate Boxes – Boxes provided or approved by the Postal Service~~

- Commercial Base – Prices are available to customers who use specifically authorized postage payment methods.
  - Zone/Weight – Prices are based on weight and zone
  - Flat Rate Envelopes – Envelope provided or approved by the Postal Service
  - ~~Flat Rate Boxes – Boxes provided or approved by the Postal Service~~

- Commercial Plus – Prices are available to customers who use specifically authorized postage payment methods and mail over 5,000 pieces annually.
  - Zone/Weight – Prices are based on weight and zone
  - Flat Rate Envelopes – Envelope provided or approved by the Postal Service
  - ~~Flat Rate Boxes – Boxes provided or approved by the Postal Service~~

* * *

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	22.95	22.95	23.70	25.75	27.55	29.25	31.20	38.05
1	22.95	23.95	28.85	32.30	33.45	35.50	36.60	44.65
2	22.95	25.55	31.45	35.20	36.65	38.80	40.15	49.00
3	22.95	26.75	35.35	40.50	42.25	44.75	46.00	56.10
4	22.95	28.50	37.70	45.80	47.60	50.40	51.75	63.15
5	24.00	32.00	40.20	49.00	53.50	56.05	57.55	70.20
6	27.45	36.65	46.60	55.70	58.60	61.60	63.50	77.45
7	30.10	40.15	53.40	60.90	63.65	67.30	69.70	85.05
8	33.05	44.05	57.85	65.50	69.10	73.05	75.05	91.55
9	34.35	45.80	60.00	70.05	74.45	78.70	80.80	98.60
10	36.15	47.75	62.30	73.20	78.30	82.75	84.85	103.50
11	38.20	53.40	69.60	78.25	82.10	86.70	88.90	108.45
12	40.25	57.15	73.95	82.40	85.80	90.65	92.85	113.30
13	42.60	60.85	77.35	86.15	89.40	94.40	98.25	119.85
14	44.55	64.60	80.40	89.50	93.15	98.35	102.30	124.80
15	46.00	68.20	83.80	93.30	96.95	102.30	106.40	129.80
16	48.00	72.10	87.10	96.90	101.15	106.70	109.95	134.15
17	49.85	75.85	90.40	100.45	104.55	110.20	113.05	137.90
18	51.85	79.45	93.60	104.00	108.20	114.10	117.10	142.85
19	53.70	83.20	96.80	107.50	111.95	117.95	121.00	147.60
20	56.00	86.95	101.60	112.75	116.30	122.55	126.40	154.20
21	57.25	92.40	104.80	116.30	121.45	127.90	131.15	160.00
22	59.40	96.25	109.40	121.35	125.30	131.85	136.20	166.15
23	61.15	99.95	112.60	124.90	129.15	135.90	140.15	171.00
24	63.40	103.80	116.25	128.85	133.05	139.95	143.25	174.75
25	65.95	107.65	119.05	131.85	136.65	143.70	147.75	180.25

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 ($)	Zone 9 ($)
26	67.40	111.50	122.50	135.65	140.50	147.70	151.95	185.40
27	69.35	115.15	125.70	139.10	144.20	151.55	155.95	190.25
28	70.75	119.00	129.70	143.50	147.95	155.45	160.05	195.25
29	72.95	122.75	133.95	148.10	151.80	159.35	163.95	200.00
30	75.00	126.55	138.20	152.70	156.15	163.95	169.15	206.35
31	76.85	130.35	142.35	157.30	161.10	169.05	174.50	212.90
32	78.90	134.30	146.65	161.85	165.80	173.95	179.70	219.25
33	81.35	138.00	150.85	166.45	170.65	178.95	184.85	225.50
34	83.70	141.70	155.20	171.20	175.35	183.85	190.00	231.80
35	85.85	145.55	159.25	175.55	180.05	188.70	195.20	238.15
36	88.05	149.40	163.60	180.25	185.00	193.80	200.45	244.55
37	89.95	153.10	167.80	184.80	189.90	198.85	205.70	250.95
38	92.05	157.00	172.05	189.45	194.60	203.75	210.80	257.20
39	94.35	160.80	176.35	194.00	199.15	208.45	216.05	263.60
40	96.35	164.45	180.65	198.70	204.00	213.45	221.30	270.00
41	98.25	168.35	184.85	203.20	208.95	218.60	226.45	276.25
42	100.00	172.20	189.10	207.75	213.85	223.60	231.60	282.55
43	102.30	175.90	193.25	212.25	218.60	228.45	236.85	288.95
44	104.15	179.75	197.55	216.85	223.30	233.35	242.00	295.25
45	106.15	183.60	201.65	221.30	228.10	238.30	247.30	301.70
46	108.25	187.25	206.15	226.05	232.85	243.15	252.45	308.00
47	110.50	191.10	210.30	230.55	237.65	248.10	257.65	314.35
48	112.40	195.00	214.45	234.95	242.45	253.00	262.85	320.70
49	114.40	198.65	218.75	239.50	247.40	258.10	268.10	327.10
50	116.85	202.55	223.05	244.20	252.00	262.80	273.25	333.35

Retail Priority Mail Express Zone/Weight (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
51	118.90	206.40	227.25	248.65	256.75	267.65	277.75	338.85
52	120.95	210.00	231.40	253.10	261.70	272.70	283.75	346.20
53	122.90	213.90	235.75	257.65	266.50	277.65	288.95	352.50
54	125.10	217.75	239.90	262.10	271.30	282.55	294.10	358.80
55	127.60	222.75	244.30	266.75	276.05	287.35	299.25	365.10
56	130.25	226.65	248.45	271.15	280.80	292.25	304.50	371.50
57	132.50	230.45	252.70	275.70	285.55	297.15	309.65	377.75
58	134.75	234.10	256.90	280.10	290.40	302.05	314.85	384.10
59	136.60	237.90	261.10	284.60	295.30	307.00	320.05	390.45
60	138.45	241.70	265.35	289.10	300.05	311.85	325.25	396.80
61	140.40	245.60	269.80	293.80	304.85	316.70	330.45	403.15
62	142.60	249.30	273.90	298.10	309.55	321.50	335.75	409.60
63	144.95	253.05	278.15	302.60	314.40	326.50	341.00	416.00
64	146.90	256.85	282.35	307.00	319.25	331.40	346.20	422.35
65	149.40	260.65	286.55	311.45	324.00	336.15	351.30	428.60
66	152.20	264.55	290.90	316.05	328.80	341.05	356.45	434.85
67	153.95	268.25	295.20	320.55	333.45	345.75	361.70	441.25
68	156.00	272.05	299.40	324.90	338.45	350.85	367.05	447.80
69	158.45	275.90	303.60	329.35	343.10	355.55	372.00	453.85
70	161.35	279.70	307.90	333.80	347.95	360.40	377.25	460.25

Retail Flat Rate Envelope

	($)
Retail Regular Flat Rate Envelope, per piece	22.95
Retail Legal Flat Rate Envelope, per piece	22.95
Retail Padded Flat Rate Envelope, per piece	22.95

~~*Retail Flat Rate Box*~~

	~~($)~~
~~Retail Regular Flat Rate Box, per piece~~	~~44.95~~

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	20.66	20.66	21.33	23.18	24.80	26.33	28.08	34.25
1	20.66	21.56	25.97	29.07	30.11	31.95	32.94	40.19
2	20.66	23.00	28.31	31.68	32.99	34.92	36.14	44.10
3	20.66	24.08	31.82	36.45	38.03	40.28	41.40	50.49
4	20.66	25.65	33.93	41.22	42.84	45.36	46.58	56.84
5	21.60	28.80	36.18	44.10	48.15	50.45	51.80	63.18
6	24.71	32.99	41.94	50.13	52.74	55.44	57.15	69.71
7	27.09	36.14	48.06	54.81	57.29	60.57	62.73	76.55
8	29.75	39.65	52.07	58.95	62.19	65.75	67.55	82.40
9	30.92	41.22	54.00	63.05	67.01	70.83	72.72	88.74
10	32.54	42.98	56.07	65.88	70.47	74.48	76.37	93.15
11	34.38	48.06	62.64	70.43	73.89	78.03	80.01	97.61
12	36.23	51.44	66.56	74.16	77.22	81.59	83.57	101.97
13	38.34	54.77	69.62	77.54	80.46	84.96	88.43	107.87
14	40.10	58.14	72.36	80.55	83.84	88.52	92.07	112.32
15	41.40	61.38	75.42	83.97	87.26	92.07	95.76	116.82
16	43.20	64.89	78.39	87.21	91.04	96.03	98.96	120.74
17	44.87	68.27	81.36	90.41	94.10	99.18	101.75	124.11
18	46.67	71.51	84.24	93.60	97.38	102.69	105.39	128.57
19	48.33	74.88	87.12	96.75	100.76	106.16	108.90	132.84
20	50.40	78.26	91.44	101.48	104.67	110.30	113.76	138.78
21	51.53	83.16	94.32	104.67	109.31	115.11	118.04	144.00
22	53.46	86.63	98.46	109.22	112.77	118.67	122.58	149.54
23	55.04	89.96	101.34	112.41	116.24	122.31	126.14	153.90
24	57.06	93.42	104.63	115.97	119.75	125.96	128.93	157.28
25	59.36	96.89	107.15	118.67	122.99	129.33	132.98	162.23

Commercial Base Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
26	60.66	100.35	110.25	122.09	126.45	132.93	136.76	166.86
27	62.42	103.64	113.13	125.19	129.78	136.40	140.36	171.23
28	63.68	107.10	116.73	129.15	133.16	139.91	144.05	175.73
29	65.66	110.48	120.56	133.29	136.62	143.42	147.56	180.00
30	67.50	113.90	124.38	137.43	140.54	147.56	152.24	185.72
31	69.17	117.32	128.12	141.57	144.99	152.15	157.05	191.61
32	71.01	120.87	131.99	145.67	149.22	156.56	161.73	197.33
33	73.22	124.20	135.77	149.81	153.59	161.06	166.37	202.95
34	75.33	127.53	139.68	154.08	157.82	165.47	171.00	208.62
35	77.27	131.00	143.33	158.00	162.05	169.83	175.68	214.34
36	79.25	134.46	147.24	162.23	166.50	174.42	180.41	220.10
37	80.96	137.79	151.02	166.32	170.91	178.97	185.13	225.86
38	82.85	141.30	154.85	170.51	175.14	183.38	189.72	231.48
39	84.92	144.72	158.72	174.60	179.24	187.61	194.45	237.24
40	86.72	148.01	162.59	178.83	183.60	192.11	199.17	243.00
41	88.43	151.52	166.37	182.88	188.06	196.74	203.81	248.63
42	90.00	154.98	170.19	186.98	192.47	201.24	208.44	254.30
43	92.07	158.31	173.93	191.03	196.74	205.61	213.17	260.06
44	93.74	161.78	177.80	195.17	200.97	210.02	217.80	265.73
45	95.54	165.24	181.49	199.17	205.29	214.47	222.57	271.53
46	97.43	168.53	185.54	203.45	209.57	218.84	227.21	277.20
47	99.45	171.99	189.27	207.50	213.89	223.29	231.89	282.92
48	101.16	175.50	193.01	211.46	218.21	227.70	236.57	288.63
49	102.96	178.79	196.88	215.55	222.66	232.29	241.29	294.39
50	105.17	182.30	200.75	219.78	226.80	236.52	245.93	300.02

Commercial Base Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
51	107.01	185.76	204.53	223.79	231.08	240.89	249.98	304.97
52	108.86	189.00	208.26	227.79	235.53	245.43	255.38	311.58
53	110.61	192.51	212.18	231.89	239.85	249.89	260.06	317.25
54	112.59	195.98	215.91	235.89	244.17	254.30	264.69	322.92
55	114.84	200.48	219.87	240.08	248.45	258.62	269.33	328.59
56	117.23	203.99	223.61	244.04	252.72	263.03	274.05	334.35
57	119.25	207.41	227.43	248.13	257.00	267.44	278.69	339.98
58	121.28	210.69	231.21	252.09	261.36	271.85	283.37	345.69
59	122.94	214.11	234.99	256.14	265.77	276.30	288.05	351.41
60	124.61	217.53	238.82	260.19	270.05	280.67	292.73	357.12
61	126.36	221.04	242.82	264.42	274.37	285.03	297.41	362.84
62	128.34	224.37	246.51	268.29	278.60	289.35	302.18	368.64
63	130.46	227.75	250.34	272.34	282.96	293.85	306.90	374.40
64	132.21	231.17	254.12	276.30	287.33	298.26	311.58	380.12
65	134.46	234.59	257.90	280.31	291.60	302.54	316.17	385.74
66	136.98	238.10	261.81	284.45	295.92	306.95	320.81	391.37
67	138.56	241.43	265.68	288.50	300.11	311.18	325.53	397.13
68	140.40	244.85	269.46	292.41	304.61	315.77	330.35	403.02
69	142.61	248.31	273.24	296.42	308.79	320.00	334.80	408.47
70	145.22	251.73	277.11	300.42	313.16	324.36	339.53	414.23

Commercial Base Flat Rate Envelope

	($)
Commercial Base Regular Flat Rate Envelope, per piece	20.66
Commercial Base Legal Flat Rate Envelope, per piece	20.66
Commercial Base Padded Flat Rate Envelope, per piece	20.66

Commercial Base Flat Rate Box

	($)
Commercial Base Flat Rate Box, per piece	44.95

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	20.66	20.66	21.33	23.18	24.80	26.33	28.08	34.25
1	20.66	21.56	25.97	29.07	30.11	31.95	32.94	40.19
2	20.66	23.00	28.31	31.68	32.99	34.92	36.14	44.10
3	20.66	24.08	31.82	36.45	38.03	40.28	41.40	50.49
4	20.66	25.65	33.93	41.22	42.84	45.36	46.58	56.84
5	21.60	28.80	36.18	44.10	48.15	50.45	51.80	63.18
6	24.71	32.99	41.94	50.13	52.74	55.44	57.15	69.71
7	27.09	36.14	48.06	54.81	57.29	60.57	62.73	76.55
8	29.75	39.65	52.07	58.95	62.19	65.75	67.55	82.40
9	30.92	41.22	54.00	63.05	67.01	70.83	72.72	88.74
10	32.54	42.98	56.07	65.88	70.47	74.48	76.37	93.15
11	34.38	48.06	62.64	70.43	73.89	78.03	80.01	97.61
12	36.23	51.44	66.56	74.16	77.22	81.59	83.57	101.97
13	38.34	54.77	69.62	77.54	80.46	84.96	88.43	107.87
14	40.10	58.14	72.36	80.55	83.84	88.52	92.07	112.32
15	41.40	61.38	75.42	83.97	87.26	92.07	95.76	116.82
16	43.20	64.89	78.39	87.21	91.04	96.03	98.96	120.74
17	44.87	68.27	81.36	90.41	94.10	99.18	101.75	124.11
18	46.67	71.51	84.24	93.60	97.38	102.69	105.39	128.57
19	48.33	74.88	87.12	96.75	100.76	106.16	108.90	132.84
20	50.40	78.26	91.44	101.48	104.67	110.30	113.76	138.78
21	51.53	83.16	94.32	104.67	109.31	115.11	118.04	144.00
22	53.46	86.63	98.46	109.22	112.77	118.67	122.58	149.54
23	55.04	89.96	101.34	112.41	116.24	122.31	126.14	153.90
24	57.06	93.42	104.63	115.97	119.75	125.96	128.93	157.28
25	59.36	96.89	107.15	118.67	122.99	129.33	132.98	162.23

Commercial Plus Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
26	60.66	100.35	110.25	122.09	126.45	132.93	136.76	166.86
27	62.42	103.64	113.13	125.19	129.78	136.40	140.36	171.23
28	63.68	107.10	116.73	129.15	133.16	139.91	144.05	175.73
29	65.66	110.48	120.56	133.29	136.62	143.42	147.56	180.00
30	67.50	113.90	124.38	137.43	140.54	147.56	152.24	185.72
31	69.17	117.32	128.12	141.57	144.99	152.15	157.05	191.61
32	71.01	120.87	131.99	145.67	149.22	156.56	161.73	197.33
33	73.22	124.20	135.77	149.81	153.59	161.06	166.37	202.95
34	75.33	127.53	139.68	154.08	157.82	165.47	171.00	208.62
35	77.27	131.00	143.33	158.00	162.05	169.83	175.68	214.34
36	79.25	134.46	147.24	162.23	166.50	174.42	180.41	220.10
37	80.96	137.79	151.02	166.32	170.91	178.97	185.13	225.86
38	82.85	141.30	154.85	170.51	175.14	183.38	189.72	231.48
39	84.92	144.72	158.72	174.60	179.24	187.61	194.45	237.24
40	86.72	148.01	162.59	178.83	183.60	192.11	199.17	243.00
41	88.43	151.52	166.37	182.88	188.06	196.74	203.81	248.63
42	90.00	154.98	170.19	186.98	192.47	201.24	208.44	254.30
43	92.07	158.31	173.93	191.03	196.74	205.61	213.17	260.06
44	93.74	161.78	177.80	195.17	200.97	210.02	217.80	265.73
45	95.54	165.24	181.49	199.17	205.29	214.47	222.57	271.53
46	97.43	168.53	185.54	203.45	209.57	218.84	227.21	277.20
47	99.45	171.99	189.27	207.50	213.89	223.29	231.89	282.92
48	101.16	175.50	193.01	211.46	218.21	227.70	236.57	288.63
49	102.96	178.79	196.88	215.55	222.66	232.29	241.29	294.39
50	105.17	182.30	200.75	219.78	226.80	236.52	245.93	300.02

Commercial Plus Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
51	107.01	185.76	204.53	223.79	231.08	240.89	249.98	304.97
52	108.86	189.00	208.26	227.79	235.53	245.43	255.38	311.58
53	110.61	192.51	212.18	231.89	239.85	249.89	260.06	317.25
54	112.59	195.98	215.91	235.89	244.17	254.30	264.69	322.92
55	114.84	200.48	219.87	240.08	248.45	258.62	269.33	328.59
56	117.23	203.99	223.61	244.04	252.72	263.03	274.05	334.35
57	119.25	207.41	227.43	248.13	257.00	267.44	278.69	339.98
58	121.28	210.69	231.21	252.09	261.36	271.85	283.37	345.69
59	122.94	214.11	234.99	256.14	265.77	276.30	288.05	351.41
60	124.61	217.53	238.82	260.19	270.05	280.67	292.73	357.12
61	126.36	221.04	242.82	264.42	274.37	285.03	297.41	362.84
62	128.34	224.37	246.51	268.29	278.60	289.35	302.18	368.64
63	130.46	227.75	250.34	272.34	282.96	293.85	306.90	374.40
64	132.21	231.17	254.12	276.30	287.33	298.26	311.58	380.12
65	134.46	234.59	257.90	280.31	291.60	302.54	316.17	385.74
66	136.98	238.10	261.81	284.45	295.92	306.95	320.81	391.37
67	138.56	241.43	265.68	288.50	300.11	311.18	325.53	397.13
68	140.40	244.85	269.46	292.41	304.61	315.77	330.35	403.02
69	142.61	248.31	273.24	296.42	308.79	320.00	334.80	408.47
70	145.22	251.73	277.11	300.42	313.16	324.36	339.53	414.23

Commercial Plus Flat Rate Envelope

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	20.66
Commercial Plus Legal Flat Rate Envelope, per piece	20.66
Commercial Plus Padded Flat Rate Envelope, per piece	20.66

~~*Commercial Plus Flat Rate Box*~~

	~~($)~~
~~Commercial Plus Flat Rate Box, per piece~~	~~44.95~~

Pickup On Demand Service

Add $20.00 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

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2110.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum				70 pounds
Flat Rate Envelope	Nominal Sizes: Regular: 9.5 x 12.5 inches Padded: 10 x 13 inches Legal: 9.5 x 15.0 inches			
Flat Rate Box	Nominal Sizes: Large: 12 x 12 x 5.5 inches or 11. 75 x 3 x 23.6875 inches – approximately 1/2 cu. ft. Medium: 11.875 x 3.375 x 13.625 inches or 11 x 8.5 x 5.5 inches – approximately 1/3 cu. ft. Small: 8.625 x 5.375 x 1.625 inches – approximately 1/20 cu. ft.			
Regional Rate Box A	Outside Dimensions: Top Loaded: 10.125 x 7.125 x 5.0 inches Side Loaded: 13.0625 x 11.0625 x 2.5 inches			15 pounds
Regional Rate Box B	Outside Dimensions: Top Loaded: 12.25 x 10.5 x 5.5 inches Side Loaded: 16.25 x 14.5 x 3 inches			20 pounds
~~Regional Rate Box C~~	~~Outside Dimensions:~~ ~~Top Loaded: 15 x 12 x 12 inches~~			~~25 pounds~~
Commercial Plus Cubic	Various, not to exceed 0.1, 0.2, 0.3, 0.4, or 0.5 cubic feet			20 pounds
Open and Distribute	Half Tray: 15 x 11.75 x 4.75 inches Full Tray: 25.875 x 11.75 x 4.75 inches EMM Tray: 12.375 x 6.4375 x 25.25 inches Flat Tub: 19.375 x 13.8125 x 12.25 inches			70 pounds
All Others	108 inches in combined length and girth			70 pounds

* * *

2110.4 Price Categories

The following price categories are available for the product specified in this section:

- Retail
  - Zone/Weight – Prices are based on weight and zone
  - Flat Rate Envelopes – Envelope provided or approved by the Postal Service
  - Flat Rate Boxes – Boxes provided or approved by the Postal Service
  - Regional Rate Boxes
  - Balloon Price – Applies to parcels in zones local through 4, weighing less than 20 pounds, and measuring between 84 and 108 inches in combined length and girth
  - Dimensional Weight – Applies to parcels in zones 5 through 8 that exceed one cubic foot

- Commercial Base – Available to mailers who use specifically authorized postage payment methods
  - Zone/Weight – Prices are based on weight and zone
  - Flat Rate Envelopes – Envelope provided or approved by the Postal Service
  - Flat Rate Boxes – Boxes provided or approved by the Postal Service
  - Regional Rate Boxes
  - Balloon Price – Applies to parcels in zones local through 4, weighing less than 20 pounds, and measuring between 84 and 108 inches in combined length and girth
  - Dimensional Weight – Applies to parcels in zones 5 through 8 that exceed one cubic foot

- Commercial Plus – Available to mailers who use specifically authorized postage payment methods and whose annual volume exceeds 50,000 pieces or 600 open and distribute containers for parcels, or 5,000 letter-sized pieces excluding the Padded Flat Rate Envelope
  - Zone/Weight – Prices are based on weight and zone
  - Flat Rate Envelopes – Envelope provided or approved by the Postal Service
  - Flat Rate Boxes – Boxes provided or approved by the Postal Service
  - Regional Rate Boxes
  - Balloon Price – Applies to parcels in zones local through 4, weighing less than 20 pounds, and measuring between 84 and 108 inches in combined length and girth
  - Dimensional Weight – Applies to parcels in zones 5 through 8 that exceed one cubic foot
  - ~~Critical Mail – Prices are available to Commercial Plus customers who use specifically authorized postage payment methods and whose annual Priority Mail volume exceeds 5,000 pieces.~~

- Commercial Plus Cubic – Prices are available to customers who use specifically authorized postage payment methods and whose annual Priority Mail volume exceeds 50,000 pieces
  - Zone/Cubic Volume

- Open and Distribute (PMOD) – Prices are available to customers who use specifically authorized postage payment methods
  - Processing Facilities – Received at designated processing facilities, or other equivalent facility
- Half Tray, Full Tray, EMM Tray, or Flat Tub
  - DDU – Received at designated Destination Delivery Unit, or other equivalent facility
- Half Tray, Full Tray, EMM Tray, or Flat Tub

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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	6.45	6.70	6.85	6.95	7.05	7.30	7.85	10.00
2	6.80	7.15	7.75	9.45	10.25	11.35	12.40	16.20
3	7.35	8.45	9.75	11.35	12.80	14.10	16.65	21.70
4	8.30	9.90	11.15	14.95	16.45	18.00	20.05	26.15
5	9.85	10.95	12.45	17.00	18.70	20.65	23.15	30.25
6	10.00	11.30	12.75	18.70	20.80	22.40	25.25	34.15
7	10.60	12.15	13.55	20.85	23.05	25.15	28.45	38.40
8	11.40	12.85	14.15	22.65	25.25	27.80	31.80	42.95
9	11.90	13.20	14.65	23.90	27.50	30.05	35.40	47.80
10	12.65	13.25	14.90	25.95	29.70	33.05	38.60	52.10
11	13.50	13.80	15.10	28.00	31.90	36.50	42.35	57.65
12	13.95	14.20	15.30	30.00	34.70	39.45	45.45	61.85
13	14.10	14.55	15.50	31.70	37.25	41.05	47.10	64.10
14	14.30	15.00	15.70	33.70	39.30	43.35	49.45	67.30
15	14.55	15.45	15.90	35.65	41.00	44.30	50.80	69.20
16	15.40	16.55	17.45	37.65	43.30	46.75	53.65	73.00
17	16.15	17.60	19.05	39.60	45.50	49.25	56.45	76.85
18	16.95	18.60	20.60	41.55	47.90	51.65	59.35	80.80
19	17.75	19.65	22.15	42.70	48.85	52.75	60.60	84.60
20	18.50	20.70	23.70	43.40	50.00	54.65	63.40	88.50
21	19.30	21.75	25.25	44.05	50.85	55.55	64.85	91.25
22	20.05	22.80	27.35	45.10	52.00	56.90	66.40	93.50
23	20.85	23.80	29.45	45.85	52.95	58.00	67.60	95.15
24	21.65	25.10	31.50	46.85	54.05	59.45	69.25	97.50
25	22.55	27.10	33.95	47.65	54.75	60.95	70.40	99.10

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 ($)	Zone 9 ($)
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	156.95

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 ($)	Zone 9 ($)
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	6.45
Retail Legal Flat Rate Envelope, per piece	6.45
Retail Padded Flat Rate Envelope, per piece	6.80

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	6.80	6.80
Medium Flat Rate Boxes	13.45	13.45
Large Flat Rate Boxes	18.75	16.75

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	8.26	8.40	8.85	9.15	9.92	10.70	11.77	15.95
B	8.96	10.15	11.00	11.66	14.37	16.14	18.09	25.41
~~C~~	~~10.60~~	~~11.45~~	~~11.49~~	~~20.53~~	~~38.13~~	~~41.64~~	~~48.18~~	~~58.14~~

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	5.75	5.95	6.05	6.20	6.33	6.62	7.16	9.76
2	6.01	6.15	6.60	8.15	8.92	9.70	10.77	14.95
3	6.09	7.09	8.17	9.75	11.47	12.40	14.47	20.28
4	6.71	7.90	8.75	10.66	13.37	15.14	17.09	24.41
5	7.39	7.99	9.01	11.26	15.22	17.41	19.81	28.30
6	7.55	8.10	9.06	12.11	17.08	19.85	22.69	32.43
7	7.63	8.14	9.50	12.99	18.91	22.38	25.48	36.40
8	7.92	8.66	9.74	13.64	20.79	24.63	28.61	40.88
9	8.42	8.87	9.89	14.42	22.61	26.68	31.82	45.45
10	8.69	9.07	10.04	15.27	24.43	29.33	34.60	49.43
11	9.00	9.27	10.13	15.93	26.21	31.92	37.49	54.00
12	9.22	9.56	10.23	16.81	28.58	34.51	40.19	57.90
13	9.44	9.79	10.35	17.70	30.69	35.91	41.62	59.96
14	9.60	10.05	10.46	18.41	32.41	37.93	43.69	62.94
15	9.73	10.36	10.57	18.78	33.66	38.64	44.85	64.60
16	10.26	10.89	11.04	19.28	35.57	40.80	47.31	68.15
17	10.34	11.24	11.28	19.78	37.38	42.93	49.80	71.74
18	10.46	11.38	11.60	20.28	39.35	45.05	52.31	75.36
19	10.58	11.77	12.00	20.78	41.12	47.16	54.80	78.93
20	10.77	12.15	12.41	21.28	42.17	48.91	57.33	82.58
21	11.76	13.07	13.32	22.78	42.51	49.37	58.07	84.34
22	13.26	14.57	15.07	24.53	42.81	49.76	58.74	85.31
23	14.76	16.07	17.07	26.53	43.05	50.11	59.08	85.81
24	16.26	18.07	20.07	29.53	43.95	51.40	60.52	87.91
25	17.76	20.07	24.07	32.53	44.59	52.68	61.57	89.43

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 ($)	Zone 9 ($)
26	18.77	23.00	29.24	36.53	45.68	53.97	63.49	92.21
27	19.31	23.34	30.14	39.92	46.30	55.23	65.90	95.71
28	19.90	23.66	30.98	40.96	46.92	56.52	68.37	99.30
29	20.50	23.89	31.82	41.50	47.72	57.81	70.20	101.95
30	21.13	24.25	32.57	42.09	49.06	59.08	71.72	104.16
31	21.71	24.49	33.08	42.61	49.77	60.40	73.17	107.15
32	21.96	25.00	33.63	43.12	50.42	61.69	74.67	109.34
33	22.30	25.69	34.48	43.68	51.39	62.95	76.05	111.35
34	22.50	26.37	35.34	44.62	52.60	64.26	77.49	113.46
35	22.77	27.00	35.84	45.56	54.01	65.54	78.80	115.39
36	23.05	27.78	36.32	46.55	55.38	66.43	80.15	117.36
37	23.29	28.28	36.84	47.39	56.83	67.28	81.46	119.29
38	23.50	28.97	37.31	48.33	58.42	68.07	82.76	121.19
39	23.75	29.64	37.75	49.33	59.80	69.87	84.04	123.06
40	23.99	30.27	38.22	50.35	60.76	71.42	85.19	124.74
41	24.25	30.79	38.63	50.81	61.78	72.93	86.40	127.55
42	24.43	31.42	39.12	51.91	62.85	73.93	87.58	129.29
43	24.71	31.92	39.51	53.08	64.36	74.84	88.70	130.95
44	24.87	32.45	39.98	54.19	65.39	75.74	89.72	132.45
45	25.04	32.78	40.28	55.42	66.12	76.58	90.86	134.13
46	25.25	33.03	40.69	56.45	66.84	77.39	91.94	135.73
47	25.46	33.29	41.08	57.77	67.54	78.27	92.97	137.24
48	25.66	33.59	41.42	58.85	68.42	79.02	93.98	138.73
49	25.85	33.85	41.76	59.91	69.35	79.84	94.90	140.09
50	25.96	34.06	42.05	61.12	70.32	80.85	95.91	141.59

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 ($)	Zone 9 ($)
51	26.34	34.37	42.44	62.16	71.28	82.02	96.80	144.05
52	26.75	34.53	42.69	62.60	71.98	83.27	97.93	145.74
53	27.23	34.79	42.98	63.12	72.58	84.61	99.18	147.60
54	27.63	34.94	43.30	63.66	73.10	85.84	100.58	149.68
55	28.06	35.24	43.55	64.07	73.70	87.18	101.93	151.68
56	28.45	35.41	43.82	64.55	74.19	88.42	102.97	153.24
57	28.90	35.57	44.10	64.93	74.76	89.75	103.90	154.61
58	29.33	35.74	44.32	65.34	75.18	90.95	104.75	155.88
59	29.76	35.92	44.53	65.75	75.63	91.57	105.53	157.03
60	30.14	36.08	45.11	66.09	76.01	92.12	106.26	158.13
61	30.61	36.25	45.91	66.43	76.43	92.64	107.69	160.26
62	30.99	36.33	46.52	66.73	76.79	93.06	109.41	162.81
63	31.54	36.45	47.27	67.08	77.22	93.50	111.15	165.41
64	31.83	37.03	47.98	67.36	77.56	93.93	112.88	167.96
65	32.29	37.11	48.62	67.58	77.80	94.37	114.63	170.59
66	32.72	37.28	49.37	67.89	78.18	94.67	116.30	173.06
67	33.20	37.36	50.20	68.14	78.45	95.06	117.83	175.35
68	33.59	37.44	50.85	68.32	79.42	95.54	119.09	177.23
69	34.06	37.48	51.48	68.53	80.37	96.00	120.35	179.10
70	34.41	37.57	52.30	68.73	81.34	96.35	121.64	181.03

Commercial Base Flat Rate Envelope

	($)
Commercial Base Regular Flat Rate Envelope, per piece	5.75
Commercial Base Legal Flat Rate Envelope, per piece	5.75
Commercial Base Padded Flat Rate Envelope, per piece	6.10

Commercial Base Flat Rate Box

Size	Delivery to Domestic Address ($)	Delivery to APO/FPO/DPO Address ($)
Small Flat Rate Box	6.10	6.10
Medium Flat Rate Boxes	11.95	11.95
Large Flat Rate Boxes	16.35	14.35

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	6.01	6.15	6.60	8.15	8.92	9.70	10.77	14.95
B	6.71	7.90	8.75	10.66	13.37	15.14	17.09	24.41
~~C~~	~~9.85~~	~~10.70~~	~~10.74~~	~~19.78~~	~~37.38~~	~~40.89~~	~~47.43~~	~~57.39~~

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	5.60	5.77	5.87	6.01	6.14	6.42	6.95	9.47
1	5.60	5.77	5.87	6.01	6.14	6.42	6.95	9.47
2	5.83	5.96	6.40	7.91	8.65	9.41	10.44	14.50
3	5.91	6.88	7.92	9.46	11.13	12.03	14.03	19.67
4	6.51	7.67	8.49	10.34	12.97	14.69	16.58	23.68
5	7.17	7.75	8.74	10.92	14.76	16.89	19.22	27.45
6	7.32	7.86	8.79	11.75	16.57	19.25	22.01	31.45
7	7.40	7.89	9.22	12.60	18.34	21.70	24.72	35.31
8	7.68	8.40	9.45	13.23	20.17	23.89	27.75	39.65
9	8.17	8.61	9.59	13.99	21.93	25.88	30.86	44.09
10	8.43	8.80	9.74	14.81	23.70	28.45	33.56	47.94
11	8.73	8.99	9.83	15.45	25.42	30.96	36.36	52.38
12	8.94	9.27	9.92	16.31	27.72	33.48	38.99	56.16
13	9.16	9.49	10.04	17.17	29.77	34.83	40.37	58.16
14	9.31	9.75	10.14	17.86	31.44	36.79	42.38	61.05
15	9.44	10.05	10.26	18.22	32.65	37.48	43.50	62.66
16	9.95	10.56	10.70	18.70	34.50	39.58	45.89	66.11
17	10.03	10.90	10.94	19.19	36.26	41.65	48.31	69.59
18	10.14	11.04	11.25	19.67	38.17	43.69	50.74	73.10
19	10.27	11.42	11.64	20.16	39.89	45.74	53.16	76.56
20	10.45	11.78	12.04	20.64	40.90	47.44	55.61	80.10
21	11.41	12.68	12.92	22.10	41.23	47.89	56.32	81.81
22	12.86	14.13	14.62	23.79	41.53	48.27	56.97	82.75
23	14.32	15.59	16.56	25.73	41.76	48.60	57.31	83.24
24	15.77	17.53	19.47	28.64	42.63	49.86	58.71	85.28
25	17.23	19.47	23.35	31.55	43.25	51.10	59.72	86.74

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 ($)	Zone 9 ($)
26	18.21	22.31	28.36	35.43	44.31	52.35	61.59	89.45
27	18.73	22.64	29.24	38.72	44.91	53.57	63.92	92.84
28	19.30	22.95	30.05	39.73	45.51	54.83	66.31	96.32
29	19.89	23.17	30.87	40.26	46.29	56.08	68.10	98.89
30	20.50	23.52	31.59	40.83	47.59	57.31	69.56	101.04
31	21.06	23.76	32.09	41.33	48.28	58.58	70.98	103.94
32	21.30	24.25	32.62	41.83	48.91	59.84	72.43	106.06
33	21.63	24.92	33.45	42.37	49.85	61.06	73.77	108.01
34	21.83	25.58	34.28	43.28	51.02	62.33	75.17	110.06
35	22.09	26.19	34.76	44.19	52.39	63.57	76.44	111.93
36	22.36	26.95	35.23	45.15	53.72	64.44	77.74	113.84
37	22.59	27.43	35.73	45.97	55.13	65.27	79.02	115.71
38	22.80	28.10	36.19	46.88	56.67	66.03	80.28	117.55
39	23.04	28.75	36.62	47.85	58.01	67.77	81.52	119.37
40	23.27	29.36	37.07	48.84	58.94	69.28	82.63	121.00
41	23.52	29.87	37.47	49.29	59.93	70.75	83.81	123.72
42	23.70	30.48	37.95	50.35	60.96	71.71	84.95	125.41
43	23.97	30.96	38.32	51.49	62.43	72.60	86.04	127.02
44	24.12	31.48	38.78	52.56	63.43	73.46	87.03	128.48
45	24.29	31.80	39.07	53.76	64.14	74.28	88.13	130.10
46	24.49	32.04	39.47	54.76	64.83	75.06	89.18	131.65
47	24.70	32.29	39.85	56.04	65.51	75.92	90.18	133.12
48	24.89	32.58	40.18	57.08	66.37	76.65	91.16	134.56
49	25.07	32.83	40.51	58.11	67.27	77.45	92.05	135.88
50	25.18	33.04	40.79	59.29	68.21	78.42	93.03	137.34

Commercial Plus Priority Mail Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
51	25.55	33.34	41.17	60.30	69.14	79.56	93.90	139.73
52	25.95	33.49	41.41	60.72	69.82	80.77	95.00	141.37
53	26.41	33.75	41.69	61.23	70.40	82.07	96.21	143.17
54	26.80	33.89	42.00	61.75	70.91	83.26	97.56	145.18
55	27.22	34.18	42.24	62.15	71.49	84.57	98.88	147.12
56	27.60	34.35	42.51	62.61	71.96	85.77	99.88	148.64
57	28.03	34.50	42.78	62.98	72.52	87.06	100.78	149.97
58	28.45	34.67	42.99	63.38	72.92	88.22	101.61	151.20
59	28.87	34.84	43.19	63.78	73.36	88.82	102.36	152.31
60	29.24	35.00	43.76	64.11	73.73	89.35	103.07	153.38
61	29.69	35.16	44.53	64.44	74.14	89.86	104.46	155.45
62	30.06	35.24	45.12	64.73	74.49	90.27	106.13	157.93
63	30.59	35.36	45.85	65.07	74.90	90.70	107.82	160.45
64	30.88	35.91	46.54	65.34	75.23	91.12	109.49	162.92
65	31.32	36.00	47.16	65.55	75.47	91.54	111.19	165.47
66	31.74	36.16	47.89	65.85	75.83	91.83	112.81	167.87
67	32.20	36.24	48.69	66.10	76.10	92.20	114.30	170.09
68	32.58	36.32	49.32	66.27	77.04	92.67	115.52	171.91
69	33.04	36.36	49.94	66.47	77.96	93.12	116.74	173.73
70	33.38	36.44	50.73	66.67	78.90	93.46	117.99	175.59

Commercial Plus Flat Rate Envelope

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	5.60
Commercial Plus Legal Flat Rate Envelope, per piece	5.60
Commercial Plus Padded Flat Rate Envelope, per piece	5.90

Commercial Plus Flat Rate Box

Size	Delivery to Domestic Address ($)	Delivery to APO/FPO/DPO Address ($)
Small Flat Rate Box	5.90	5.90
Medium Flat Rate Boxes	11.60	11.60
Large Flat Rate Boxes	15.85	13.85

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	6.01	6.15	6.60	8.15	8.92	9.70	10.77	14.95
B	6.71	7.90	8.75	10.66	13.37	15.14	17.09	24.41
~~C~~	~~9.85~~	~~10.70~~	~~10.74~~	~~19.78~~	~~37.38~~	~~40.89~~	~~47.43~~	~~57.39~~

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.

Critical Mail

Shape	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
Letter	3.50	3.50	3.50	3.50	3.50	3.50	3.50	3.50
Flat	4.50	4.50	4.50	4.50	4.50	4.50	4.50	4.50
Letter with Signature	4.60	4.60	4.60	4.60	4.60	4.60	4.60	4.60
Flat with Signature	5.35	5.35	5.35	5.35	5.35	5.35	5.35	5.35

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	5.60	5.77	5.89	6.01	6.14	6.42	6.95	9.47
0.20	5.71	5.89	5.99	6.13	6.26	6.55	7.09	9.66
0.30	5.96	6.18	6.69	8.23	9.09	9.87	11.03	15.34
0.40	6.03	6.97	8.01	9.57	11.23	12.15	14.14	19.82
0.50	6.64	7.82	8.65	10.55	13.22	14.97	16.91	24.14

Open and Distribute (PMOD)

a. DDU

Container	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
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

Container	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
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 $20.00 for each Pickup On Demand stop.

IMpb-Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2115 Parcel Select

2115.1 Description

a. Any mailable matter may be mailed as Parcel Select mail, except matter required to be mailed by First-Class Mail or Priority Mail services; and publications required to be entered as Periodicals mail.

b. Parcel Select mail is not sealed against postal inspection. Mailing of matter as such constitutes consent by the mailer to postal inspection of the contents, regardless of the physical closure.

c. Undeliverable-as-addressed Parcel Select pieces will be forwarded on request of the addressee or forwarded or returned on request of the mailer, subject to the applicable Parcel Select ~~Nonpresort~~ Ground price, plus ~~$3.00~~an applicable fee, when forwarded or returned. Pieces which combine Parcel Select matter with First-Class Mail or Standard Mail matter will be forwarded or returned if undeliverable-as-addressed, as specified in the Domestic Mail Manual.

d. An annual mailing permit fee is required for destination entered parcels to be paid at each office of mailing or office of verification by or for mailers of Parcel Select (1505.2). Payment of the fee allows the mailer to mail at any Parcel Select price.

Attachments and enclosures

a. First-Class Mail or Standard Mail pieces may be attached to or enclosed in Parcel Select mail. Postage at the applicable First-Class Mail or Standard Mail price may be required.

* * *

2115.3 Minimum Volume Requirements

	Minimum Volume Requirements
~~Nonpresort~~ Parcel Select Ground	50 pieces or 50 pounds per mailing
Lightweight	200 pieces or 50 pounds per mailing
All Other Parcel Select	50 pieces per mailing

2115.4 Price Categories

Destination Entered

- DDU – Entered at a designated destination delivery unit, or other equivalent facility
  - DDU
  - Balloon Price
  - Oversized
  - Forwarding and Returns

- DSCF – Entered at a designated destination processing and distribution center or facility, or other equivalent facility
  - Machinable — 5-Digit
  - Nonmachinable — 3-Digit, 5-Digit
  - Balloon Price
  - Oversized
  - Forwarding and Returns

- DNDC – Entered at a designated destination network distribution center, auxiliary service facility, or other equivalent facility
  - Machinable
  - Nonmachinable
  - Balloon Price
  - Oversized
  - Forwarding and Returns

Non-Destination Entered

- ~~ONDC Presort – Entered at the origin network distribution center~~
  - ~~ONDC Presort~~
  - ~~Balloon Price~~
  - ~~Oversized~~
  - ~~Forwarding and Returns~~

- ~~NDC Presort – Entered at a designated facility~~
  - ~~NDC Presort~~
  - ~~Balloon Price~~
  - ~~Oversized~~
  - ~~Forwarding and Returns~~

- ~~Nonpresort~~ Parcel Select Ground
  - ~~Nonpresort~~ Parcel Select Ground
  - Balloon Price
  - Oversized
  - Forwarding and Returns

- ~~Machinable~~ Parcel Select Lightweight ~~Parcels~~
  - 5-Digit
    DDU, DSCF, and DNDC entry levels
    Commercial eligible
  - SCF
    DNDC and Origin entry levels
    Commercial eligible
  - NDC
    DNDC and Origin entry levels
    Commercial eligible
  - Mixed NDC/Single-Piece
    Origin entry level
    Commercial eligible

- ~~Irregular Lightweight Parcels (do not meet the machinability requirements for machinable parcels)~~
  - ~~5-Digit~~
    ~~DDU, DSCF, and DNDC entry levels~~
    ~~Commercial eligible~~
  - ~~SCF~~
    ~~DSCF and DNDC entry levels~~
    ~~Commercial eligible~~
  - ~~NDC~~
    ~~DNDC and Origin entry levels~~
    ~~Commercial eligible~~
  - ~~Mixed NDC~~
    ~~Origin entry level~~
    ~~Commercial eligible~~

* * *

2115.6 Prices

Destination Entered — DDU

a. DDU

Maximum Weight (pounds)	DDU ($)
1	2.66
2	2.66
3	2.71
4	2.77
5	2.83
6	2.89
7	2.95
8	3.01
9	3.07
10	3.13
11	3.19
12	3.25
13	3.31
14	3.37
15	3.43
16	3.49
17	3.55
18	3.61
19	3.67
20	3.73
21	3.79
22	3.85
23	3.91
24	3.97
25	4.03

a. DDU (Continued)

Maximum Weight (pounds)	DDU ($)
26	4.09
27	4.15
28	4.21
29	4.27
30	4.33
31	4.39
32	4.45
33	4.51
34	4.57
35	4.63
36	4.69
37	4.75
38	4.81
39	4.87
40	4.93
41	4.99
42	5.05
43	5.11
44	5.17
45	5.23
46	5.29
47	5.35
48	5.41
49	5.47
50	5.53

a. DDU (Continued)

Maximum Weight (pounds)	DDU ($)
51	5.60
52	5.67
53	5.74
54	5.81
55	5.88
56	5.95
57	6.02
58	6.09
59	6.16
60	6.23
61	6.30
62	6.37
63	6.44
64	6.51
65	6.58
66	6.65
67	6.72
68	6.79
69	6.86
70	6.93
Oversized	10.31

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 ~~Nonpresort~~ 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 $1.50.

Destination Entered — DSCF

a. DSCF — 5-Digit Machinable

Maximum Weight (pounds)	DSCF 5-Digit ($)
1	3.63
2	3.63
3	3.77
4	3.91
5	4.05
6	4.20
7	4.35
8	4.50
9	4.65
10	4.80
11	4.95
12	5.10
13	5.25
14	5.40
15	5.55
16	5.70
17	5.85
18	6.00
19	6.15
20	6.30
21	6.45
22	6.60
23	6.75
24	6.90
25	7.05

a. DSCF — 5-Digit Machinable (Continued)

Maximum Weight (pounds)	DSCF 5-Digit ($)
26	7.20
27	7.35
28	7.50
29	7.65
30	7.80
31	7.95
32	8.10
33	8.25
34	8.40
35	8.55

b. DSCF — 3-Digit, 5-Digit Non-Machinable

Maximum Weight (pounds)	DSCF 3-Digit ($)	DSCF 5-Digit ($)
1	5.13	3.63
2	5.13	3.63
3	5.27	3.77
4	5.41	3.91
5	5.55	4.05
6	5.70	4.20
7	5.85	4.35
8	6.00	4.50
9	6.15	4.65
10	6.30	4.80
11	6.45	4.95
12	6.60	5.10
13	6.75	5.25
14	6.90	5.40
15	7.05	5.55
16	7.20	5.70
17	7.35	5.85
18	7.50	6.00
19	7.65	6.15
20	7.80	6.30
21	7.95	6.45
22	8.10	6.60
23	8.25	6.75
24	8.40	6.90
25	8.55	7.05

b. DSCF — 3-Digit, 5-Digit Non-Machinable (Continued)

Maximum Weight (pounds)	DSCF 3-Digit ($)	DSCF 5-Digit ($)
26	8.70	7.20
27	8.85	7.35
28	9.00	7.50
29	9.15	7.65
30	9.30	7.80
31	9.45	7.95
32	9.60	8.10
33	9.75	8.25
34	9.90	8.40
35	10.05	8.55
36	10.20	8.70
37	10.35	8.85
38	10.50	9.00
39	10.65	9.15
40	10.80	9.30
41	10.95	9.45
42	11.10	9.60
43	11.25	9.75
44	11.40	9.90
45	11.55	10.05
46	11.70	10.20
47	11.85	10.35
48	12.00	10.50
49	12.15	10.65
50	12.30	10.80

b. DSCF — 3-Digit, 5-Digit Non-Machinable (Continued)

Maximum Weight (pounds)	DSCF 3-Digit ($)	DSCF 5-Digit ($)
51	12.45	10.95
52	12.60	11.10
53	12.75	11.25
54	12.90	11.40
55	13.05	11.55
56	13.20	11.70
57	13.35	11.85
58	13.50	12.00
59	13.65	12.15
60	13.80	12.30
61	13.94	12.44
62	14.08	12.58
63	14.22	12.72
64	14.36	12.86
65	14.50	13.00
66	14.64	13.14
67	14.78	13.28
68	14.92	13.42
69	15.06	13.56
70	15.20	13.70
Oversized	20.68	20.68

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 ~~Nonpresort~~ 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 $1.50.

Destination Entered — DNDC

a. DNDC — Machinable

Maximum Weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
1	4.89	5.58	6.39	7.20
2	4.89	5.58	6.39	7.20
3	5.15	6.17	7.22	8.13
4	5.41	6.75	8.03	9.01
5	5.67	7.32	8.83	9.85
6	5.92	7.88	9.60	10.64
7	6.17	8.43	10.33	11.39
8	6.42	8.97	11.01	12.08
9	6.67	9.51	11.63	12.72
10	6.92	10.04	12.21	13.34
11	7.17	10.56	12.74	13.92
12	7.41	11.05	13.23	14.45
13	7.65	11.51	13.68	14.96
14	7.89	11.95	14.10	15.42
15	8.13	12.36	14.50	15.83
16	8.37	12.76	14.88	16.21
17	8.61	13.14	15.25	16.57
18	8.85	13.51	15.59	16.91
19	9.09	13.86	15.93	17.25
20	9.33	14.18	16.27	17.58
21	9.57	14.50	16.61	17.91
22	9.81	14.80	16.93	18.24
23	10.05	15.07	17.23	18.57
24	10.29	15.31	17.51	18.89
25	10.53	15.53	17.78	19.20

a. DNDC — Machinable (Continued)

Maximum Weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
26	10.76	15.74	18.04	19.50
27	10.99	15.94	18.29	19.79
28	11.22	16.15	18.54	20.08
29	11.45	16.37	18.79	20.36
30	11.67	16.59	19.04	20.64
31	11.89	16.81	19.29	20.92
32	12.11	17.03	19.54	21.20
33	12.33	17.26	19.79	21.48
34	12.55	17.48	20.04	21.76
35	12.77	17.70	20.29	22.04

b. DNDC — Non-Machinable

Maximum Weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
1	7.39	8.08	8.89	9.70
2	7.39	8.08	8.89	9.70
3	7.65	8.67	9.72	10.63
4	7.91	9.25	10.53	11.51
5	8.17	9.82	11.33	12.35
6	8.42	10.38	12.10	13.14
7	8.67	10.93	12.83	13.89
8	8.92	11.47	13.51	14.58
9	9.17	12.01	14.13	15.22
10	9.42	12.54	14.71	15.84
11	9.67	13.06	15.24	16.42
12	9.91	13.55	15.73	16.95
13	10.15	14.01	16.18	17.46
14	10.39	14.45	16.60	17.92
15	10.63	14.86	17.00	18.33
16	10.87	15.26	17.38	18.71
17	11.11	15.64	17.75	19.07
18	11.35	16.01	18.09	19.41
19	11.59	16.36	18.43	19.75
20	11.83	16.68	18.77	20.08
21	12.07	17.00	19.11	20.41
22	12.31	17.30	19.43	20.74
23	12.55	17.57	19.73	21.07
24	12.79	17.81	20.01	21.39
25	13.03	18.03	20.28	21.70

b. DNDC — Non-Machinable (Continued)

Maximum Weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
26	13.26	18.24	20.54	22.00
27	13.49	18.44	20.79	22.29
28	13.72	18.65	21.04	22.58
29	13.95	18.87	21.29	22.86
30	14.17	19.09	21.54	23.14
31	14.39	19.31	21.79	23.42
32	14.61	19.53	22.04	23.70
33	14.83	19.76	22.29	23.98
34	15.05	19.98	22.54	24.26
35	15.27	20.20	22.79	24.54
36	15.49	20.43	23.04	24.82
37	15.71	20.67	23.29	25.10
38	15.93	20.90	23.54	25.38
39	16.15	21.13	23.79	25.66
40	16.37	21.36	24.04	25.94
41	16.59	21.59	24.29	26.22
42	16.81	21.83	24.54	26.50
43	17.03	22.08	24.79	26.78
44	17.25	22.32	25.04	27.06
45	17.47	22.57	25.29	27.34
46	17.69	22.82	25.54	27.62
47	17.91	23.07	25.79	27.90
48	18.13	23.32	26.03	28.18
49	18.35	23.57	26.27	28.46
50	18.57	23.80	26.51	28.74

b. DNDC — Non-Machinable (Continued)

Maximum Weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
51	18.79	24.03	26.75	29.02
52	19.01	24.26	26.99	29.30
53	19.23	24.49	27.23	29.58
54	19.45	24.72	27.47	29.86
55	19.68	24.95	27.71	30.14
56	19.92	25.18	27.95	30.42
57	20.17	25.41	28.19	30.70
58	20.42	25.64	28.43	30.98
59	20.67	25.87	28.67	31.26
60	20.92	26.10	28.91	31.54
61	21.17	26.33	29.14	31.82
62	21.42	26.56	29.37	32.10
63	21.67	26.79	29.60	32.38
64	21.92	27.02	29.83	32.65
65	22.17	27.25	30.06	32.92
66	22.42	27.48	30.29	33.18
67	22.67	27.71	30.52	33.43
68	22.92	27.94	30.75	33.68
69	23.17	28.17	30.98	33.93
70	23.42	28.40	31.20	34.18
Oversized	32.51	44.04	53.15	63.34

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 ~~Nonpresort~~ 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 $1.50.

Non-Destination Entered—ONDC Presort

a. ONDC Presort

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	5.20	5.30	5.45	5.59	5.82	6.07	6.54
2	5.40	5.80	6.50	7.13	8.15	9.11	10.44
3	6.15	7.15	8.30	9.62	10.43	11.99	13.72
4	7.00	8.45	9.60	10.54	11.70	12.99	14.81
5	8.40	9.40	10.75	12.07	13.17	14.30	16.02
6	9.05	10.25	11.55	13.60	14.89	16.18	18.15
7	9.65	11.15	12.50	14.77	16.30	17.84	20.21
8	10.40	11.80	13.05	16.61	18.51	20.48	23.43
9	10.90	12.15	13.55	18.09	20.41	22.75	26.24
10	11.60	12.20	13.80	19.74	22.27	24.85	28.67
11	12.45	12.70	13.95	21.41	24.29	27.27	31.62
12	12.85	13.10	14.15	23.02	26.19	29.37	34.14
13	13.00	13.45	14.35	24.34	27.45	30.63	35.43
14	13.20	13.85	14.55	25.88	29.05	32.24	37.21
15	13.45	14.30	14.75	27.29	30.30	33.33	38.18
16	14.25	15.35	16.25	28.92	32.07	35.29	40.42
17	15.00	16.35	17.75	30.63	33.51	36.42	41.34
18	15.75	17.35	19.25	32.16	35.20	38.24	43.40
19	16.50	18.35	20.75	32.82	35.87	39.01	44.24
20	17.25	19.35	22.25	33.46	36.58	39.73	45.12
21	18.00	20.35	23.75	33.98	37.15	40.35	45.81
22	18.75	21.35	25.75	34.60	37.84	41.09	46.65
23	19.50	22.35	27.75	35.75	38.88	42.25	47.96
24	20.25	23.60	29.75	37.17	40.13	43.57	49.48
25	21.65	26.45	33.25	38.63	41.33	44.86	50.93

a. ONDC Presort (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
26	22.05	26.70	34.40	40.25	42.75	46.41	52.69
27	22.70	27.10	35.45	41.81	44.06	47.81	54.31
28	23.45	27.50	36.50	43.42	45.38	49.22	55.92
29	24.15	27.75	37.45	44.79	46.56	50.48	57.36
30	24.90	28.15	38.35	46.19	47.67	51.69	58.74
31	25.65	28.45	38.95	47.26	48.42	52.50	59.63
32	25.95	29.05	39.65	48.43	49.69	54.26	62.01
33	26.35	29.90	40.65	49.95	51.32	56.49	64.83
34	26.60	30.70	41.65	51.45	52.98	58.73	67.75
35	26.90	31.45	42.25	52.59	54.13	60.44	70.05
36	27.20	32.35	42.80	53.55	55.21	62.11	72.26
37	27.50	32.95	43.45	54.59	56.41	63.91	74.66
38	27.75	33.80	44.00	55.69	57.52	65.63	76.99
39	28.05	34.55	44.55	56.72	58.61	67.32	79.28
40	28.40	35.30	45.15	57.78	59.80	69.10	81.66
41	28.70	36.00	45.65	58.65	60.88	70.75	83.90
42	28.90	36.65	46.20	59.72	61.98	72.50	86.22
43	29.25	37.25	46.60	60.53	62.93	73.97	88.33
44	29.45	37.85	47.20	61.56	64.16	75.81	90.84
45	29.65	38.30	47.55	62.35	65.04	77.25	92.84
46	29.90	38.60	48.05	63.27	66.11	78.95	95.13
47	30.15	38.90	48.50	64.10	67.13	80.55	97.39
48	30.40	39.25	48.95	65.03	68.15	82.16	99.60
49	30.60	39.55	49.35	65.77	68.80	82.99	100.67
50	30.75	39.80	49.70	66.55	69.32	83.78	101.60

a. ONDC Presort (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
51	30.90	40.15	50.15	67.51	70.03	84.67	102.78
52	31.30	40.40	50.50	68.16	70.56	85.34	103.61
53	31.80	40.70	50.85	68.92	71.07	86.04	104.51
54	32.25	40.90	51.20	69.81	71.61	86.78	105.43
55	32.80	41.20	51.45	70.28	72.01	87.28	106.07
56	33.25	41.40	51.75	70.71	72.71	87.92	106.84
57	33.75	41.55	52.10	71.23	73.53	88.62	107.79
58	34.30	41.75	52.40	71.55	74.28	89.19	108.43
59	34.85	41.95	52.65	71.88	74.99	89.71	109.11
60	35.30	42.15	53.20	72.54	76.16	90.75	110.46
61	35.85	42.35	54.15	73.74	77.84	92.43	112.51
62	36.25	42.45	54.85	74.70	79.24	93.66	114.07
63	36.95	42.65	55.75	75.87	80.85	95.30	116.10
64	37.30	42.75	56.55	76.88	82.39	96.76	117.89
65	37.80	42.85	57.35	77.96	83.90	98.20	119.70
66	38.30	43.05	58.25	79.10	85.54	99.76	121.59
67	38.90	43.15	59.25	80.44	87.43	101.49	123.80
68	39.40	43.25	60.05	80.64	88.94	102.93	125.58
69	39.95	43.30	60.75	80.83	90.04	103.57	126.16
70	40.35	43.40	61.75	81.08	91.55	104.68	127.38
Oversized	62.49	67.44	72.39	104.61	122.87	141.12	159.37

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 Nonpresort price, plus $3.00, when forwarded or returned.~~

Non-Destination Entered — NDC Presort

a. NDC Presort

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	5.55	5.65	5.80	5.94	6.17	6.42	6.89
2	5.75	6.15	6.85	7.48	8.50	9.46	10.79
3	6.50	7.50	8.65	9.97	10.78	12.34	14.07
4	7.35	8.80	9.95	10.89	12.05	13.34	15.16
5	8.75	9.75	11.10	12.42	13.52	14.65	16.37
6	9.40	10.60	11.90	13.95	15.24	16.53	18.50
7	10.00	11.50	12.85	15.12	16.65	18.19	20.56
8	10.75	12.15	13.40	16.96	18.86	20.83	23.78
9	11.25	12.50	13.90	18.44	20.76	23.10	26.59
10	11.95	12.55	14.15	20.09	22.62	25.20	29.02
11	12.80	13.05	14.30	21.76	24.64	27.62	31.97
12	13.20	13.45	14.50	23.37	26.54	29.72	34.49
13	13.35	13.80	14.70	24.69	27.80	30.98	35.78
14	13.55	14.20	14.90	26.23	29.40	32.59	37.56
15	13.80	14.65	15.10	27.64	30.65	33.68	38.53
16	14.60	15.70	16.60	29.27	32.42	35.64	40.77
17	15.35	16.70	18.10	30.98	33.86	36.77	41.69
18	16.10	17.70	19.60	32.51	35.55	38.59	43.75
19	16.85	18.70	21.10	33.17	36.22	39.36	44.59
20	17.60	19.70	22.60	33.81	36.93	40.08	45.47
21	18.35	20.70	24.10	34.33	37.50	40.70	46.16
22	19.10	21.70	26.10	34.95	38.19	41.44	47.00
23	19.85	22.70	28.10	36.10	39.23	42.60	48.31
24	20.60	23.95	30.10	37.52	40.48	43.92	49.83
25	22.00	26.80	33.60	38.98	41.68	45.21	51.28

a. NDC Presort (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
26	22.40	27.05	34.75	40.60	43.10	46.76	53.04
27	23.05	27.45	35.80	42.16	44.41	48.16	54.66
28	23.80	27.85	36.85	43.77	45.73	49.57	56.27
29	24.50	28.10	37.80	45.14	46.91	50.83	57.71
30	25.25	28.50	38.70	46.54	48.02	52.04	59.09
31	26.00	28.80	39.30	47.61	48.77	52.85	59.98
32	26.30	29.40	40.00	48.78	50.04	54.61	62.36
33	26.70	30.25	41.00	50.30	51.67	56.84	65.18
34	26.95	31.05	42.00	51.80	53.33	59.08	68.10
35	27.25	31.80	42.60	52.94	54.48	60.79	70.40
36	27.55	32.70	43.15	53.90	55.56	62.46	72.61
37	27.85	33.30	43.80	54.94	56.76	64.26	75.01
38	28.10	34.15	44.35	56.04	57.87	65.98	77.34
39	28.40	34.90	44.90	57.07	58.96	67.67	79.63
40	28.75	35.65	45.50	58.13	60.15	69.45	82.01
41	29.05	36.35	46.00	59.00	61.23	71.10	84.25
42	29.25	37.00	46.55	60.07	62.33	72.85	86.57
43	29.60	37.60	46.95	60.88	63.28	74.32	88.68
44	29.80	38.20	47.55	61.91	64.51	76.16	91.19
45	30.00	38.65	47.90	62.70	65.39	77.60	93.19
46	30.25	38.95	48.40	63.62	66.46	79.30	95.48
47	30.50	39.25	48.85	64.45	67.48	80.90	97.74
48	30.75	39.60	49.30	65.38	68.50	82.51	99.95
49	30.95	39.90	49.70	66.12	69.15	83.34	101.02
50	31.10	40.15	50.05	66.90	69.67	84.13	101.95

a. NDC Presort (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
51	31.25	40.50	50.50	67.86	70.38	85.02	103.13
52	31.65	40.75	50.85	68.51	70.91	85.69	103.96
53	32.15	41.05	51.20	69.27	71.42	86.39	104.86
54	32.60	41.25	51.55	70.16	71.96	87.13	105.78
55	33.15	41.55	51.80	70.63	72.36	87.63	106.42
56	33.60	41.75	52.10	71.06	73.06	88.27	107.19
57	34.10	41.90	52.45	71.58	73.88	88.97	108.14
58	34.65	42.10	52.75	71.90	74.63	89.54	108.78
59	35.20	42.30	53.00	72.23	75.34	90.06	109.46
60	35.65	42.50	53.55	72.89	76.51	91.10	110.81
61	36.20	42.70	54.50	74.09	78.19	92.78	112.86
62	36.60	42.80	55.20	75.05	79.59	94.01	114.42
63	37.30	43.00	56.10	76.22	81.20	95.65	116.45
64	37.65	43.10	56.90	77.23	82.74	97.11	118.24
65	38.15	43.20	57.70	78.31	84.25	98.55	120.05
66	38.65	43.40	58.60	79.45	85.89	100.11	121.94
67	39.25	43.50	59.60	80.79	87.78	101.84	124.15
68	39.75	43.60	60.40	80.99	89.29	103.28	125.93
69	40.30	43.65	61.10	81.18	90.39	103.92	126.51
70	40.70	43.75	62.10	81.43	91.90	105.03	127.73
Oversized	62.84	67.79	72.74	104.96	123.22	141.47	159.72

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 Nonpresort price, plus $3.00, when forwarded or returned.~~

Non-Destination Entered — ~~Nonpresort~~ Parcel Select Ground

a. ~~Nonpresort~~ Parcel Select Ground

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	5.95	6.10	6.15	6.20	6.28	6.57	7.11
2	6.12	6.26	6.72	8.26	9.04	10.28	11.42
3	6.31	7.35	8.46	9.97	11.74	13.28	15.50
4	6.78	7.98	8.91	10.61	13.32	15.09	17.04
5	7.46	8.06	9.26	11.21	15.17	17.36	19.76
6	7.55	8.10	9.38	12.06	17.03	19.80	22.64
7	7.63	8.14	9.50	12.94	18.86	22.33	25.43
8	7.92	8.66	9.74	13.59	20.74	24.58	28.56
9	8.42	8.87	9.89	14.37	22.56	26.63	31.77
10	8.69	9.07	10.04	15.22	24.38	29.28	34.55
11	9.00	9.27	10.13	15.88	26.16	31.87	37.44
12	9.22	9.56	10.23	16.76	28.53	34.46	40.14
13	9.44	9.79	10.35	17.65	30.64	35.86	41.57
14	9.60	10.05	10.46	18.36	32.36	37.88	43.64
15	9.73	10.36	10.57	18.73	33.61	38.59	44.80
16	10.26	10.89	11.04	19.23	35.52	40.75	47.26
17	10.34	11.24	11.28	19.73	37.33	42.88	49.75
18	10.46	11.38	11.60	20.23	39.30	45.00	52.26
19	10.58	11.77	12.00	20.73	41.07	47.11	54.75
20	10.77	12.15	12.41	21.23	42.12	48.86	57.28
21	11.76	13.07	13.32	22.73	42.46	49.32	58.02
22	13.26	14.57	15.07	24.48	42.76	49.71	58.69
23	14.76	16.07	17.07	26.48	43.00	50.06	59.03
24	16.26	18.07	20.07	29.48	43.90	51.35	60.47
25	17.76	20.07	24.07	32.48	44.54	52.63	61.52

a. ~~Nonpresort~~ Parcel Select Ground (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
26	18.77	23.00	29.24	36.48	45.63	53.92	63.44
27	19.31	23.34	30.14	39.87	46.25	55.18	65.85
28	19.90	23.66	30.98	40.91	46.87	56.47	68.32
29	20.50	23.89	31.82	41.45	47.67	57.76	70.15
30	21.13	24.25	32.57	42.04	49.01	59.03	71.67
31	21.71	24.49	33.08	42.56	49.72	60.35	73.12
32	21.96	25.00	33.63	43.07	50.37	61.64	74.62
33	22.30	25.69	34.48	43.63	51.34	62.90	76.00
34	22.50	26.37	35.34	44.57	52.55	64.21	77.44
35	22.77	27.00	35.84	45.51	53.96	65.49	78.75
36	23.05	27.78	36.32	46.50	55.33	66.38	80.10
37	23.29	28.28	36.84	47.34	56.78	67.23	81.41
38	23.50	28.97	37.31	48.28	58.37	68.02	82.71
39	23.75	29.64	37.75	49.28	59.75	69.82	83.99
40	23.99	30.27	38.22	50.30	60.71	71.37	85.14
41	24.25	30.79	38.63	50.76	61.73	72.88	86.35
42	24.43	31.42	39.12	51.86	62.80	73.88	87.53
43	24.71	31.92	39.51	53.03	64.31	74.79	88.65
44	24.87	32.45	39.98	54.14	65.34	75.69	89.67
45	25.04	32.78	40.28	55.37	66.07	76.53	90.81
46	25.25	33.03	40.69	56.40	66.79	77.34	91.89
47	25.46	33.29	41.08	57.72	67.49	78.22	92.92
48	25.66	33.59	41.42	58.80	68.37	78.97	93.93
49	25.85	33.85	41.76	59.86	69.30	79.79	94.85
50	25.96	34.06	42.05	61.07	70.27	80.80	95.86

a. ~~Nonpresort~~ Parcel Select Ground (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
51	26.34	34.37	42.44	62.11	71.23	81.97	96.75
52	26.75	34.53	42.69	62.55	71.93	83.22	97.88
53	27.23	34.79	42.98	63.07	72.53	84.56	99.13
54	27.63	34.94	43.30	63.61	73.05	85.79	100.53
55	28.06	35.24	43.55	64.02	73.65	87.13	101.88
56	28.45	35.41	43.82	64.50	74.14	88.37	102.92
57	28.90	35.57	44.10	64.88	74.71	89.70	103.85
58	29.33	35.74	44.32	65.29	75.13	90.90	104.70
59	29.76	35.92	44.53	65.70	75.58	91.52	105.48
60	30.14	36.08	45.11	66.04	75.96	92.07	106.21
61	30.61	36.25	45.91	66.38	76.38	92.59	107.64
62	30.99	36.33	46.52	66.68	76.74	93.01	109.36
63	31.54	36.45	47.27	67.03	77.17	93.45	111.10
64	31.83	37.03	47.98	67.31	77.51	93.88	112.83
65	32.29	37.11	48.62	67.53	77.75	94.32	114.58
66	32.72	37.28	49.37	67.84	78.13	94.62	116.25
67	33.20	37.36	50.20	68.09	78.40	95.01	117.78
68	33.59	37.44	50.85	68.27	79.37	95.49	119.04
69	34.06	37.48	51.48	68.48	80.32	95.95	120.30
70	34.41	37.57	52.30	68.68	81.29	96.30	121.59
Oversized	62.99	67.94	86.89	105.11	123.37	141.62	169.87

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 ~~Nonpresort~~ 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 $1.50.

~~Machinable~~ Parcel Select Lightweight ~~Parcels (3.5 ounces or greater)~~

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	1.30	1.57	1.62	1.70	2.01	2.52	2.82	3.20
2	1.30	1.57	1.62	1.70	2.01	2.52	2.82	3.20
3	1.30	1.57	1.62	1.70	2.01	2.52	2.82	3.20
4	1.30	1.57	1.62	1.70	2.01	2.52	2.82	3.20
5	1.30	1.57	1.62	1.70	2.01	2.52	2.82	3.20
6	1.30	1.57	1.62	1.70	2.01	2.52	2.82	3.20
7	1.30	1.57	1.62	1.70	2.01	2.52	2.82	3.20
8	1.30	1.57	1.62	1.70	2.01	2.52	2.82	3.20
9	1.51	1.86	1.90	2.00	2.31	2.70	3.01	3.42
10	1.51	1.86	1.90	2.00	2.31	2.70	3.01	3.42
11	1.51	1.86	1.90	2.00	2.31	2.70	3.01	3.42
12	1.51	1.86	1.90	2.00	2.31	2.70	3.01	3.42
13	1.72	2.15	2.18	2.29	2.60	2.88	3.20	3.64
14	1.72	2.15	2.18	2.29	2.60	2.88	3.20	3.64
15	1.72	2.15	2.18	2.29	2.60	2.88	3.20	3.64
~~16~~ 15.999	1.72	2.15	2.18	2.29	2.60	2.88	3.20	3.64

Irregular Lightweight Parcels

Maximum Weight (ounces)	Entry Point/Sortation Level							
	DDU/ 5-Digit ($)	DSCF/ 5-Digit ($)	DNDC/ 5-Digit ($)	DSCF/ SCF ($)	DNDC/ SCF ($)	DNDC/ NDC ($)	None/ NDC ($)	None/ Mixed NDC ($)
1	1.07	1.11	1.17	1.14	1.21	1.63	1.69	2.07
2	1.07	1.11	1.17	1.14	1.21	1.63	1.69	2.07
3	1.07	1.11	1.17	1.14	1.21	1.63	1.69	2.07
4	1.10	1.15	1.21	1.18	1.25	1.67	1.74	2.13
5	1.13	1.20	1.26	1.23	1.30	1.72	1.80	2.19
6	1.16	1.25	1.31	1.28	1.35	1.78	1.86	2.25
7	1.19	1.30	1.36	1.33	1.40	1.84	1.92	2.32
8	1.22	1.36	1.42	1.39	1.46	1.90	1.99	2.39
9	1.26	1.42	1.48	1.45	1.52	1.97	2.06	2.46
10	1.30	1.48	1.54	1.51	1.58	2.04	2.13	2.53
11	1.34	1.54	1.61	1.57	1.65	2.11	2.20	2.61
12	1.39	1.60	1.68	1.63	1.72	2.18	2.27	2.69
13	1.44	1.67	1.75	1.70	1.79	2.25	2.34	2.77
14	1.49	1.74	1.82	1.77	1.86	2.32	2.42	2.85
15	1.55	1.81	1.89	1.84	1.93	2.39	2.50	2.93
16	1.61	1.88	1.96	1.91	2.00	2.46	2.59	3.01

Pickup On Demand Service

Add $20.00 for each Pickup On Demand stop.

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2120 Parcel Return Service

* * *

2120.4 Price Categories

- ~~RNDC – Contains merchandise and is retrieved in bulk at a network distribution center, or other equivalent facility~~
  - ~~Machinable~~
  - ~~Nonmachinable~~
  - ~~Balloon Price~~
  - ~~Oversized~~

- RSCF – Contains merchandise and is retrieved in bulk at a return sectional center facility, or other equivalent facility
  - Machinable
  - Nonmachinable
  - Balloon Price
  - Oversized

- RDU – Contains merchandise and is retrieved in bulk at a designated destination delivery unit, or other equivalent facility
  - Machinable
  - Nonmachinable
  - Oversized

* * *

2120.6 Prices

RNDC Entered

a. Machinable RNDC

Maximum Weight (pounds)	RNDC ($)
1	3.76
2	4.15
3	4.55
4	4.86
5	5.26
6	5.68
7	6.10
8	6.53
9	6.97
10	7.41
11	7.77
12	8.14
13	8.44
14	8.71
15	8.91
16	9.09
17	9.23
18	9.44
19	9.58
20	9.79
21	9.94
22	10.12
23	10.28
24	10.46
25	10.56

a. Machinable RNDC (Continued)

Maximum Weight (pounds)	RNDC ($)
26	10.70
27	10.84
28	11.02
29	11.16
30	11.31
31	11.46
32	11.55
33	11.70
34	11.87
35	12.00

b. Nonmachinable RNDC

Maximum Weight (pounds)	RNDC ($)
1	6.26
2	6.65
3	7.05
4	7.36
5	7.76
6	8.18
7	8.60
8	9.03
9	9.47
10	9.91
11	10.27
12	10.64
13	10.94
14	11.21
15	11.41
16	11.59
17	11.73
18	11.94
19	12.08
20	12.29
21	12.44
22	12.62
23	12.78
24	12.96
25	13.06

b. Nonmachinable RNDC (Continued)

Maximum Weight (pounds)	RNDC ($)
26	13.20
27	13.34
28	13.52
29	13.66
30	13.81
31	13.96
32	14.05
33	14.20
34	14.37
35	14.50
36	14.60
37	14.76
38	14.87
39	15.02
40	15.16
41	15.25
42	15.37
43	15.50
44	15.62
45	15.74
46	15.86
47	16.01
48	16.13
49	16.24
50	16.38

b. Nonmachinable RNDC (Continued)

Maximum Weight (pounds)	RNDC ($)
51	16.52
52	16.59
53	16.69
54	16.82
55	16.94
56	17.03
57	17.15
58	17.27
59	17.38
60	17.53
61	17.64
62	17.75
63	17.85
64	17.96
65	18.09
66	18.19
67	18.32
68	18.42
69	18.50
70	18.66
Oversized	41.80

c. Balloon Price

RNDC 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.~~

~~Pickup on Demand Service~~

~~Add $20.00 for each Pickup on Demand stop.~~

RSCF Entered

a. Machinable RSCF

Maximum Weight (pounds)	RSCF ($)
1	3.14
2	3.55
3	3.85
4	4.16
5	4.44
6	4.82
7	5.17
8	5.50
9	5.89
10	6.24
11	6.60
12	6.98
13	7.26
14	7.56
15	7.75
16	7.99
17	8.19
18	8.43
19	8.64
20	8.87
21	9.07
22	9.31
23	9.48
24	9.70
25	9.81

a. Machinable RSCF (Continued)

Maximum Weight (pounds)	RSCF ($)
26	9.99
27	10.18
28	10.37
29	10.55
30	10.74
31	10.95
32	11.11
33	11.29
34	11.54
35	11.73

b. Nonmachinable RSCF

Maximum Weight (pounds)	RSCF ($)
1	5.64
2	6.05
3	6.35
4	6.66
5	6.94
6	7.32
7	7.67
8	8.00
9	8.39
10	8.74
11	9.10
12	9.48
13	9.76
14	10.06
15	10.25
16	10.49
17	10.69
18	10.93
19	11.14
20	11.37
21	11.57
22	11.81
23	11.98
24	12.20
25	12.31

b. Nonmachinable RSCF (Continued)

Maximum Weight (pounds)	RSCF ($)
26	12.49
27	12.68
28	12.87
29	13.05
30	13.24
31	13.45
32	13.61
33	13.79
34	14.04
35	14.23
36	14.42
37	14.66
38	14.81
39	15.01
40	15.18
41	15.35
42	15.56
43	15.73
44	15.89
45	16.02
46	16.18
47	16.36
48	16.46
49	16.59
50	16.74

b. Nonmachinable RSCF (Continued)

Maximum Weight (pounds)	RSCF ($)
51	16.86
52	16.96
53	17.04
54	17.20
55	17.35
56	17.45
57	17.59
58	17.71
59	17.85
60	18.02
61	18.13
62	18.28
63	18.38
64	18.50
65	18.65
66	18.73
67	18.88
68	18.96
69	19.07
70	19.22
Oversized	28.77

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.

RDU Entered

a. Machinable RDU

Maximum Weight (pounds)	RDU ($)
1	2.54
2	2.60
3	2.65
4	2.71
5	2.76
6	2.81
7	2.87
8	2.92
9	2.98
10	3.03
11	3.09
12	3.14
13	3.19
14	3.25
15	3.30
16	3.36
17	3.41
18	3.47
19	3.52
20	3.57
21	3.63
22	3.68
23	3.74
24	3.79
25	3.85

a. Machinable RDU (Continued)

Maximum Weight (pounds)	RDU ($)
26	3.90
27	3.95
28	4.01
29	4.06
30	4.12
31	4.17
32	4.22
33	4.28
34	4.33
35	4.39

b. Nonmachinable RDU

Maximum Weight (pounds)	RDU ($)
1	2.54
2	2.60
3	2.65
4	2.71
5	2.76
6	2.81
7	2.87
8	2.92
9	2.98
10	3.03
11	3.09
12	3.14
13	3.19
14	3.25
15	3.30
16	3.36
17	3.41
18	3.47
19	3.52
20	3.57
21	3.63
22	3.68
23	3.74
24	3.79
25	3.85

b. Nonmachinable RDU (Continued)

Maximum Weight (pounds)	RDU ($)
26	3.90
27	3.95
28	4.01
29	4.06
30	4.12
31	4.17
32	4.22
33	4.28
34	4.33
35	4.39
36	4.44
37	4.50
38	4.55
39	4.60
40	4.66
41	4.71
42	4.77
43	4.82
44	4.88
45	4.93
46	4.98
47	5.04
48	5.09
49	5.15
50	5.20

b. Nonmachinable RDU (Continued)

Maximum Weight (pounds)	RDU ($)
51	5.26
52	5.31
53	5.36
54	5.42
55	5.47
56	5.53
57	5.58
58	5.64
59	5.69
60	5.74
61	5.80
62	5.85
63	5.91
64	5.96
65	6.01
66	6.07
67	6.12
68	6.18
69	6.23
70	6.29
Oversized	9.48

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

2125.1 Description

a. Any mailable matter may be mailed as First-Class Package Service ~~Commercial Base~~ mail, except matter that meets the definition of "letter" in 39 C.F.R. § 310.1 and does not fit within any of the exceptions or suspensions to the Private Express Statutes in 39 C.F.R. Parts 310 and 320.

~~b. Any mailable matter may be mailed as First-Class Package Service Commercial Plus mail.~~

c. First-Class Package Service ~~Commercial Base~~ mail is not sealed against postal inspection. Mailing of matter as such constitutes consent by the mailer to postal inspection of the contents, regardless of the physical closure.

d. First-Class Package Service pieces that are undeliverable-as-addressed are entitled to be forwarded or returned to the sender without additional charge.

~~e. An annual mailing fee is required to be paid at each office of mailing by any person who mails at presorted prices (1505.2). Payment of the fee allows the mailer to mail at the First-Class Package Service price.~~

Attachments and Enclosures

a. First-Class Mail or Standard Mail pieces may be attached to or enclosed in First-Class Package Service mail. Additional postage may be required.

2125.2 Size and Weight Limitations

~~*Commercial Base (Mixed ADC/Single-Piece, ADC, 3-Digit, and 5-Digit)*~~ *Single-Piece*

	Length	Height	Thickness	Weight
Minimum	3.5 inches	3.0 inches	0.05 inch	none
Maximum	18 inches	15 inches	22 inch	~~13~~ 16 ounces

~~*Commercial Plus (Mixed ADC/Single-Piece, ADC, 3-Digit, and 5-Digit)*~~

	~~Length~~	~~Height~~	~~Thickness~~	~~Weight~~
~~Minimum~~	~~6.0 inches~~	~~3.0 inches~~	~~0.25 inch~~	~~3.5 ounces~~
~~Maximum~~	~~18 inches~~	~~15 inches~~	~~22 inch~~	~~<16 ounces~~

2125.3 Minimum Volume Requirements

		Minimum Volume Requirements
~~Commercial Base~~ Single-Piece		none
	~~Mixed ADC/ Single-Piece~~	~~none~~
	~~ADC~~	~~500 pieces per mailing~~
	~~3-Digit~~	~~500 pieces per mailing~~
	~~5-Digit~~	~~500 pieces per mailing~~
~~Commercial Plus~~		~~5,000 pieces per year commitment, and:~~
	~~Mixed ADC/ Single-Piece~~	~~200 pieces or 50 pounds per mailing~~
	~~ADC~~	~~500 pieces per mailing~~
	~~3-Digit~~	~~500 pieces per mailing~~
	~~5-Digit~~	~~500 pieces per mailing~~

2125.4 Price Categories

The following price categories are available for the product specified in this section:

- ~~Commercial Plus~~
  - ~~5-Digit~~
  - ~~3-Digit~~
  - ~~ADC~~
  - ~~Mixed ADC/Single-Piece~~

- ~~Commercial Base~~ Single-Piece
  - ~~5-Digit~~
  - ~~3-Digit~~
  - ~~ADC~~

~~○ Mixed ADC/Single-Piece~~

* * *

2125.6 Prices

~~Commercial Plus~~

~~Maximum Weight (ounces)~~	~~5-Digit ($)~~	~~3-Digit ($)~~	~~ADC ($)~~	~~Single-Piece ($)~~
~~≥3.5 and <16~~	~~3.37~~	~~3.57~~	~~3.77~~	~~4.05~~

~~Commercial Base~~ Single-Piece

Maximum Weight (ounces)	Single-Piece ($)	~~5-Digit ($)~~	~~3-Digit ($)~~	~~ADC ($)~~	~~Mixed ADC/Single-Piece ($)~~
1	2.60	~~1.54~~	~~1.67~~	~~1.79~~	~~2.04~~
2	2.60	~~1.54~~	~~1.67~~	~~1.79~~	~~2.04~~
3	2.60	~~1.54~~	~~1.67~~	~~1.79~~	~~2.04~~
4	2.60	~~1.63~~	~~1.76~~	~~1.88~~	~~2.13~~
5	2.60	~~1.72~~	~~1.85~~	~~1.97~~	~~2.22~~
6	2.60	~~1.85~~	~~1.98~~	~~2.10~~	~~2.35~~
7	2.60	~~2.03~~	~~2.16~~	~~2.28~~	~~2.53~~
8	2.60	~~2.21~~	~~2.34~~	~~2.46~~	~~2.71~~
9	3.30	~~2.39~~	~~2.52~~	~~2.64~~	~~2.89~~
10	3.35	~~2.57~~	~~2.70~~	~~2.82~~	~~3.07~~
11	3.40	~~2.75~~	~~2.88~~	~~3.01~~	~~3.25~~
12	3.45	~~2.93~~	~~3.06~~	~~3.20~~	~~3.44~~
13	3.50	~~3.11~~	~~3.25~~	~~3.39~~	~~3.63~~
14	3.55				
15	3.60				
15.999	3.65				

Irregular Commercial Base Parcel Surcharge

Add $0.20 for each irregularly shaped ~~Commercial Base~~ parcel (such as rolls, tubes, and triangles)~~, unless the parcel is prepared in 5-Digit/scheme containers~~.

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

Pickup on Demand Service

Add $20.00 for each Pickup on Demand stop.

2135 ~~Standard Post~~ Retail Ground

2135.1 Description

a. ~~Standard Post~~ Retail Ground provides reliable and economical ground package delivery service for less-than-urgent deliveries and oversized packages up to 130 inches in combined length and girth.

b. Any mailable matter may be mailed as ~~Standard Post~~ Retail Ground, except matter required to be mailed: (1) by First-Class Mail service; (2) as Customized MarketMail pieces; or (3) copies of a publication that are required to be entered as Periodicals mail.

c. ~~Standard Post~~ Retail Ground pieces are not sealed against postal inspection. Mailing of matter as ~~Standard Post~~ Retail Ground mail constitutes consent by the mailer to postal inspection of the contents, regardless of the physical closure.

d. ~~Standard Post~~ Retail Ground mail may receive deferred service.

e. ~~Standard Post~~ Retail Ground pieces that are undeliverable-as-addressed will be forwarded on request of the addressee, or forwarded and returned on request of the mailer, subject to the applicable single-piece ~~Standard Post~~ Retail Ground price when forwarded or returned from one post office to another. Pieces which combine domestic ~~Standard Post~~ Retail Ground mail with First-Class Mail or Standard Mail pieces will be forwarded if undeliverable-as-addressed, and returned if undeliverable.

Attachments and enclosures

a. First-Class Mail or Standard Mail pieces may be attached to or enclosed in ~~Standard Post~~ Retail Ground mail. Additional postage may be required.

b. ~~Standard Post~~ Retail Ground mail may have limited written additions placed on the wrapper, on a tag or label attached to the outside of the package, or inside the package, either loose or attached to the article.

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2135.4 Price Categories

- ~~Standard Post~~ Retail Ground
  - Zones 1-8
  - Limited Overland Routes
  - Balloon Price
  - Oversized

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2135.6 Prices

~~*Standard Post*~~ *Retail Ground*[1]

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	6.75	6.80	6.85	6.89	7.04	7.29	7.84
2	6.85	7.00	7.75	7.97	9.02	10.09	11.51
3	7.35	8.45	9.75	10.38	11.14	12.91	15.00
4	8.30	9.90	11.15	12.71	13.55	15.85	18.05
5	9.85	10.95	12.45	14.45	15.33	18.16	20.86
6	10.00	11.30	12.75	15.91	17.06	19.90	22.98
7	10.60	12.15	13.55	17.72	18.89	21.91	25.03
8	11.40	12.85	14.15	19.27	20.72	23.93	28.01
9	11.90	13.20	14.65	20.33	22.56	25.85	31.16
10	12.65	13.25	14.90	22.06	24.35	28.44	33.95
11	13.50	13.80	15.10	23.78	26.14	31.39	37.25
12	13.95	14.20	15.30	25.50	28.44	33.94	39.99
13	14.10	14.55	15.50	26.96	30.53	35.28	41.46
14	14.30	15.00	15.70	28.64	32.24	37.30	43.52
15	14.55	15.45	15.90	30.32	33.60	38.10	44.71
16	15.40	16.55	17.45	32.00	35.52	40.20	47.22
17	16.15	17.60	19.05	33.68	37.31	42.35	49.70
18	16.95	18.60	20.60	35.32	39.27	44.41	52.21
19	17.75	19.65	22.15	36.29	40.04	45.35	53.31
20	18.50	20.70	23.70	36.91	41.02	47.00	55.78
21	19.30	21.75	25.25	37.44	41.70	47.76	57.06
22	20.05	22.80	27.35	38.32	42.64	48.92	58.44
23	20.85	23.80	29.45	38.98	43.41	49.86	59.49
24	21.65	25.10	31.50	39.82	44.30	51.11	60.95
25	22.55	27.10	33.95	40.49	44.90	52.41	61.96

~~*Standard Post*~~ *Retail Ground (Continued)*

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
26	23.50	28.35	36.35	41.33	46.01	53.71	63.93
27	24.20	28.75	37.45	43.11	46.65	54.96	66.31
28	24.95	29.15	38.55	44.20	47.29	56.21	68.82
29	25.70	29.45	39.50	44.83	48.10	57.51	70.65
30	26.45	29.85	40.45	45.47	49.42	58.81	72.21
31	27.25	30.15	41.10	46.05	50.14	60.06	73.67
32	27.55	30.80	41.80	46.60	50.78	61.36	75.14
33	28.00	31.65	42.85	47.19	52.04	62.65	76.56
34	28.25	32.50	43.90	48.18	53.30	63.95	78.02
35	28.55	33.30	44.50	49.22	54.56	65.20	79.30
36	28.85	34.20	45.10	50.31	55.82	66.10	80.67
37	29.15	34.85	45.75	51.21	57.22	66.95	82.00
38	29.45	35.70	46.35	52.21	58.84	67.75	83.33
39	29.75	36.50	46.90	53.29	60.25	69.49	84.56
40	30.10	37.30	47.55	54.42	61.23	71.06	85.75
41	30.40	38.00	48.05	54.92	62.21	72.58	86.99
42	30.65	38.70	48.60	56.10	63.32	73.52	88.18
43	31.00	39.30	49.05	57.36	64.86	74.46	89.28
44	31.20	39.95	49.65	58.54	65.88	75.35	90.33
45	31.40	40.40	50.00	59.90	67.30	76.20	91.47
46	31.65	40.70	50.55	60.98	68.03	77.01	92.57
47	31.95	41.05	51.00	62.39	68.75	77.86	93.58
48	32.20	41.40	51.50	63.61	69.65	78.62	94.59
49	32.40	41.70	51.90	64.78	70.54	79.42	95.55
50	32.55	41.95	52.25	66.05	71.53	80.45	96.55

~~Standard Post~~ Retail Ground (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
51	32.70	42.35	52.75	67.14	72.51	81.61	97.42
52	33.10	42.60	53.10	67.68	73.23	82.82	98.57
53	33.65	42.90	53.45	68.22	73.83	84.16	99.85
54	34.10	43.10	53.80	68.76	74.38	85.42	101.27
55	34.70	43.40	54.10	69.26	74.94	86.71	102.59
56	35.15	43.65	54.40	69.71	75.45	87.96	103.55
57	35.65	43.80	54.75	70.12	76.00	89.31	104.33
58	36.25	44.00	55.05	70.62	76.43	90.51	105.11
59	36.80	44.20	55.35	71.03	76.90	91.09	105.93
60	37.30	44.40	55.90	71.39	77.28	91.63	106.62
61	37.85	44.60	56.90	71.75	77.71	92.17	108.09
62	38.25	44.70	57.60	72.11	78.09	92.57	109.82
63	39.00	44.95	58.55	72.47	78.52	93.02	111.56
64	39.35	45.05	59.40	72.79	78.82	93.46	113.26
65	39.90	45.15	60.20	73.02	79.07	93.91	115.04
66	40.40	45.35	61.15	73.38	79.46	94.23	116.69
67	41.05	45.45	62.20	73.65	79.71	94.58	118.24
68	41.55	45.55	63.00	73.83	80.69	94.94	119.53
69	42.10	45.60	63.75	74.01	81.67	95.21	120.76
70	42.55	45.70	64.80	74.24	82.65	95.57	122.09
Oversized	63.04	67.99	86.94	105.16	123.42	141.67	169.92

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	6.75	6.80	6.85	6.89
2	6.85	7.00	7.21	7.45
3	7.03	7.76	8.14	8.49
4	7.75	8.21	8.66	9.11
5	7.96	8.51	9.21	9.77
6	8.10	8.74	9.45	9.96
7	8.25	8.98	9.70	10.43
8	8.55	9.38	10.20	11.03
9	8.86	9.79	10.71	11.64
10	9.16	10.37	11.21	12.24
11	9.46	10.59	11.72	12.84
12	9.78	10.99	12.22	13.45
13	10.08	11.40	12.72	14.05
14	10.39	11.80	13.23	14.64
15	10.69	12.21	13.73	15.25
16	10.99	12.62	14.24	15.85
17	11.30	13.02	14.74	16.45
18	11.61	13.43	15.25	17.06
19	11.92	13.83	15.75	17.66
20	12.22	14.24	16.24	18.26
21	12.52	14.64	16.75	18.87
22	12.83	15.04	17.25	19.47
23	13.14	15.44	17.76	20.07
24	13.45	15.85	18.26	20.68
25	13.75	16.25	18.76	21.27

Limited Overland Routes (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)
26	14.05	16.64	19.25	21.86
27	14.34	17.04	19.74	22.45
28	14.64	17.43	20.23	23.04
29	14.94	17.83	20.73	23.62
30	15.24	18.23	21.22	24.20
31	15.54	18.62	21.71	24.80
32	15.84	19.02	22.20	25.40
33	16.14	19.41	22.70	25.98
34	16.44	19.81	23.19	26.58
35	16.74	20.21	23.68	27.16
36	17.03	20.60	24.18	27.76
37	17.33	21.00	24.67	28.34
38	17.63	21.39	25.16	28.93
39	17.93	21.79	25.65	29.53
40	18.23	22.19	26.15	30.11
41	18.53	22.58	26.64	30.71
42	18.83	22.98	27.13	31.29
43	19.13	23.38	27.63	31.89
44	19.43	23.77	28.12	32.47
45	19.73	24.17	28.61	33.06
46	20.02	24.56	29.10	33.65
47	20.32	24.96	29.60	34.24
48	20.62	25.36	30.09	34.83
49	20.92	25.75	30.58	35.42
50	21.22	26.15	31.07	36.01

Limited Overland Routes (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)
51	21.52	26.54	31.57	36.61
52	21.82	26.94	32.06	37.19
53	22.12	27.34	32.55	37.79
54	22.42	27.73	33.05	38.37
55	22.71	28.13	33.54	38.97
56	23.01	28.52	34.03	39.55
57	23.31	28.92	34.52	40.14
58	23.61	29.32	35.02	40.74
59	23.91	29.71	35.51	41.31
60	24.21	30.11	36.00	41.91
61	24.51	30.50	36.50	42.49
62	24.81	30.90	36.99	43.09
63	25.11	31.30	37.48	43.68
64	25.40	31.69	37.97	44.27
65	25.70	32.09	38.47	44.86
66	26.00	32.49	38.96	45.45
67	26.30	32.88	39.45	46.04
68	26.60	33.28	39.94	46.62
69	26.90	33.67	40.44	47.22
70	27.20	34.07	40.93	47.81
Oversized	42.38	48.41	54.44	60.48

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 $20.00 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

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2305.2 Size and Weight Limitations

Global Express Guaranteed[1]

	Length	Height	Thickness	Weight
Minimum	Must be able to hold the shipping label with pouch and postage			none
Maximum	46 inches	35 inches	46 inches	70 pounds
	108 inches in combined length and girth			

Priority Mail Express International[1]

	Length	Height	Thickness	Weight
Minimum	Large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	79 inches			70 pounds
	108 inches in combined length and girth			
Flat Rate Envelopes	Nominal Size: Regular: 9.5 x 12.5 inches Legal: 9.5 x 15 inches Padded: 9.5 x 12.5 inches			4 pounds
~~Flat Rate Boxes~~	~~Nominal Size:~~ ~~Top Loading: 11.25 x 8.75 x 6 inches~~ ~~Side Loading: 12 x 3.5 x 14 inches~~			~~20 pounds~~

Notes

1. Country-specific restrictions may apply as specified in the International Mail Manual.

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2305.4 Price Categories

The following price categories are available for the product specified in this section:

Global Express Guaranteed

- Retail
  - Price Groups 1-8

- Commercial Base – For selected destination countries, available for customers who prepare and pay for Global Express Guaranteed shipments via Postal Service-approved payment methods. The discount applies only to the postage portion of Global Express Guaranteed prices.
  - Price Groups 1-8

- Commercial Plus – For selected destination countries, available for customers who use specifically authorized postage payment methods and must tender at least $100,000.00 per year of any combination of Global Express Guaranteed, Priority Mail Express International, Priority Mail International, or Outbound Single-Piece First-Class Package International Service items. The discount applies only to the postage portion of Global Express Guaranteed prices. Mail tendered under an Outbound International Negotiated Service Agreement may be used to satisfy the $100,000.00 per year commitment.
  - Price Groups 1-8

Priority Mail Express International

- Flat Rate Envelope - Envelope provided or approved by the Postal Service
  - ~~Canada~~
  - ~~All Other Countries~~
  - Price Groups 1-8

- ~~Flat Rate Box - Boxes provided or approved by the Postal Service~~
  - ~~Canada~~
  - ~~All Other Countries~~

- Retail
  - Price Groups 1-17

- Commercial Base – For selected destination countries, available for customers who prepare and pay for Priority Mail Express International shipments via Postal Service-approved payment methods that electronically transmit custom-related functions. The discount applies only to the postage portion of Priority Mail Express International prices.

- Price Groups 1-17

- Commercial Plus – For selected destination countries, available for customers who use specifically authorized postage payment methods and must tender at least $100,000.00 per year of any combination of Priority Mail Express International, Global Express Guaranteed, Priority Mail International, or Outbound Single-Piece First-Class Package International Service items. The discount applies only to the postage portion of Priority Mail Express International prices. Mail tendered under an Outbound International Negotiated Service Agreement may be used to satisfy the $100,000.00 per year commitment.
  - Price Groups 1-17

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2305.6 Prices

Global Express Guaranteed Retail Prices

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
0.5	59.95	65.95	76.25	124.75	83.95	88.75	65.95	102.75
1	70.75	71.75	86.45	141.95	97.60	100.95	78.25	115.45
2	75.60	78.10	93.00	157.10	104.25	108.80	87.60	128.80
3	80.45	84.45	99.55	172.25	110.90	116.65	96.95	142.15
4	85.30	90.80	106.10	187.40	117.55	124.50	106.30	155.50
5	89.95	97.15	112.65	202.55	124.20	132.35	115.65	168.85
6	94.60	103.10	118.50	217.70	130.85	140.20	121.80	181.90
7	99.25	109.05	124.35	232.85	137.50	148.05	127.95	194.95
8	103.90	115.00	130.20	248.00	144.15	155.90	134.10	208.00
9	108.55	120.95	136.05	263.15	150.80	163.75	140.25	221.05
10	113.20	126.90	141.90	278.30	157.45	171.60	146.40	234.10
11	117.65	130.55	146.65	293.45	162.10	178.25	151.35	244.05
12	122.10	134.20	151.40	308.60	166.75	184.90	156.30	254.00
13	126.55	137.85	156.15	323.75	171.40	191.55	161.25	263.95
14	131.00	141.50	160.90	338.90	176.05	198.20	166.20	273.90
15	135.45	145.15	165.65	354.05	180.70	204.85	171.15	283.85
16	139.90	148.80	170.40	369.20	185.35	211.50	176.10	293.80
17	144.35	152.45	175.15	384.35	190.00	218.15	181.05	303.75
18	148.80	156.10	179.90	399.50	194.65	224.80	186.00	313.70
19	153.25	159.75	184.65	414.65	199.30	231.45	190.95	323.65
20	157.70	163.40	189.40	429.80	203.95	238.10	195.90	333.60
21	162.15	165.85	194.15	441.75	208.60	244.75	200.85	343.55
22	166.60	168.30	198.90	453.70	213.25	251.40	205.80	353.50
23	171.05	170.75	203.65	465.65	217.90	258.05	210.75	363.45
24	175.50	173.20	208.40	477.60	222.55	264.70	215.70	373.40
25	179.95	175.65	213.15	489.55	227.20	271.35	220.65	383.35

Global Express Guaranteed Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
26	184.40	178.10	217.90	501.50	231.85	278.00	225.60	393.30
27	188.85	180.55	222.65	513.45	236.50	284.65	230.55	403.25
28	193.30	183.00	227.40	525.40	241.15	291.30	235.50	413.20
29	197.75	185.45	232.15	537.35	245.80	297.95	240.45	423.15
30	202.20	187.90	236.90	549.30	250.45	304.60	245.40	433.10
31	205.95	190.35	241.65	561.25	255.10	311.25	250.35	443.05
32	209.70	192.80	246.40	573.20	259.75	317.90	255.30	453.00
33	213.45	195.25	251.15	585.15	264.40	324.55	260.25	462.95
34	217.20	197.70	255.90	597.10	269.05	331.20	265.20	472.90
35	220.95	200.15	260.65	609.05	273.70	337.85	270.15	482.85
36	224.70	202.60	265.40	621.00	278.35	344.50	275.10	492.80
37	228.45	205.05	270.15	632.95	283.00	351.15	280.05	502.75
38	232.20	207.50	274.90	644.90	287.65	357.80	285.00	512.70
39	235.95	209.95	279.65	656.85	292.30	364.45	289.95	522.65
40	239.70	212.40	284.40	668.80	296.95	371.10	294.90	532.60
41	243.05	214.85	289.15	680.75	301.60	377.75	299.85	542.55
42	246.40	217.30	293.90	692.70	306.25	384.40	304.80	552.50
43	249.75	219.75	298.65	704.65	310.90	391.05	309.75	562.45
44	253.10	222.20	303.40	716.60	315.55	397.70	314.70	572.40
45	256.45	224.65	308.15	728.55	320.20	404.35	319.65	582.35
46	259.80	227.10	312.90	740.50	324.85	411.00	324.60	592.30
47	263.15	229.55	317.65	752.45	329.50	417.65	329.55	602.25
48	266.50	232.00	322.40	764.40	334.15	424.30	334.50	612.20
49	269.85	234.45	327.15	776.35	338.80	430.95	339.45	622.15
50	273.20	236.90	331.90	788.30	343.45	437.60	344.40	632.10

Global Express Guaranteed Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
51	276.55	239.35	336.65	800.25	348.10	444.25	349.35	642.05
52	279.90	241.80	341.40	812.20	352.75	450.90	354.30	652.00
53	283.25	244.25	346.15	824.15	357.40	457.55	359.25	661.95
54	286.60	246.70	350.90	836.10	362.05	464.20	364.20	671.90
55	289.95	249.15	355.65	848.05	366.70	470.85	369.15	681.85
56	293.30	251.60	360.40	860.00	371.35	477.50	374.10	691.80
57	296.65	254.05	365.15	871.95	376.00	484.15	379.05	701.75
58	300.00	256.50	369.90	883.90	380.65	490.80	384.00	711.70
59	303.35	258.95	374.65	895.85	385.30	497.45	388.95	721.65
60	306.70	261.40	379.40	907.80	389.95	504.10	393.90	731.60
61	310.05	263.85	384.15	919.75	394.60	510.75	398.85	741.55
62	313.40	266.30	388.90	931.70	399.25	517.40	403.80	751.50
63	316.75	268.75	393.65	943.65	403.90	524.05	408.75	761.45
64	320.10	271.20	398.40	955.60	408.55	530.70	413.70	771.40
65	323.45	273.65	403.15	967.55	413.20	537.35	418.65	781.35
66	326.80	276.10	407.90	979.50	417.85	544.00	423.60	791.30
67	330.15	278.55	412.65	991.45	422.50	550.65	428.55	801.25
68	333.50	281.00	417.40	1,003.40	427.15	557.30	433.50	811.20
69	336.85	283.45	422.15	1,015.35	431.80	563.95	438.45	821.15
70	340.20	285.90	426.90	1,027.30	436.45	570.60	443.40	831.10

Global Express Guaranteed Commercial Base Prices

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
0.5	56.95	62.65	72.44	118.51	79.75	84.31	62.65	97.61
1	67.21	68.16	82.13	134.85	92.72	95.90	74.34	109.68
2	71.82	74.20	88.35	149.25	99.04	103.36	83.22	122.36
3	76.43	80.23	94.57	163.64	105.36	110.82	92.10	135.04
4	81.04	86.26	100.80	178.03	111.67	118.28	100.99	147.73
5	85.45	92.29	107.02	192.42	117.99	125.73	109.87	160.41
6	89.87	97.95	112.58	206.82	124.31	133.19	115.71	172.81
7	94.29	103.60	118.13	221.21	130.63	140.65	121.55	185.20
8	98.71	109.25	123.69	235.60	136.94	148.11	127.40	197.60
9	103.12	114.90	129.25	249.99	143.26	155.56	133.24	210.00
10	107.54	120.56	134.81	264.39	149.58	163.02	139.08	222.40
11	111.77	124.02	139.32	278.78	154.00	169.34	143.78	231.85
12	116.00	127.49	143.83	293.17	158.41	175.66	148.49	241.30
13	120.22	130.96	148.34	307.56	162.83	181.97	153.19	250.75
14	124.45	134.43	152.86	321.96	167.25	188.29	157.89	260.21
15	128.68	137.89	157.37	336.35	171.67	194.61	162.59	269.66
16	132.91	141.36	161.88	350.74	176.08	200.93	167.30	279.11
17	137.13	144.83	166.39	365.13	180.50	207.24	172.00	288.56
18	141.36	148.30	170.91	379.53	184.92	213.56	176.70	298.02
19	145.59	151.76	175.42	393.92	189.34	219.88	181.40	307.47
20	149.82	155.23	179.93	408.31	193.75	226.20	186.11	316.92
21	154.04	157.56	184.44	419.66	198.17	232.51	190.81	326.37
22	158.27	159.89	188.96	431.02	202.59	238.83	195.51	335.83
23	162.50	162.21	193.47	442.37	207.01	245.15	200.21	345.28
24	166.73	164.54	197.98	453.72	211.42	251.47	204.92	354.73
25	170.95	166.87	202.49	465.07	215.84	257.78	209.62	364.18

Global Express Guaranteed Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
26	175.18	169.20	207.01	476.43	220.26	264.10	214.32	373.64
27	179.41	171.52	211.52	487.78	224.68	270.42	219.02	383.09
28	183.64	173.85	216.03	499.13	229.09	276.74	223.73	392.54
29	187.86	176.18	220.54	510.48	233.51	283.05	228.43	401.99
30	192.09	178.51	225.06	521.84	237.93	289.37	233.13	411.45
31	195.65	180.83	229.57	533.19	242.35	295.69	237.83	420.90
32	199.22	183.16	234.08	544.54	246.76	302.01	242.54	430.35
33	202.78	185.49	238.59	555.89	251.18	308.32	247.24	439.80
34	206.34	187.82	243.11	567.25	255.60	314.64	251.94	449.26
35	209.90	190.14	247.62	578.60	260.02	320.96	256.64	458.71
36	213.47	192.47	252.13	589.95	264.43	327.28	261.35	468.16
37	217.03	194.80	256.64	601.30	268.85	333.59	266.05	477.61
38	220.59	197.13	261.16	612.66	273.27	339.91	270.75	487.07
39	224.15	199.45	265.67	624.01	277.69	346.23	275.45	496.52
40	227.72	201.78	270.18	635.36	282.10	352.55	280.16	505.97
41	230.90	204.11	274.69	646.71	286.52	358.86	284.86	515.42
42	234.08	206.44	279.21	658.07	290.94	365.18	289.56	524.88
43	237.26	208.76	283.72	669.42	295.36	371.50	294.26	534.33
44	240.45	211.09	288.23	680.77	299.77	377.82	298.97	543.78
45	243.63	213.42	292.74	692.12	304.19	384.13	303.67	553.23
46	246.81	215.75	297.26	703.48	308.61	390.45	308.37	562.69
47	249.99	218.07	301.77	714.83	313.03	396.77	313.07	572.14
48	253.18	220.40	306.28	726.18	317.44	403.09	317.78	581.59
49	256.36	222.73	310.79	737.53	321.86	409.40	322.48	591.04
50	259.54	225.06	315.31	748.89	326.28	415.72	327.18	600.50

Global Express Guaranteed Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
51	262.72	227.38	319.82	760.24	330.70	422.04	331.88	609.95
52	265.91	229.71	324.33	771.59	335.11	428.36	336.59	619.40
53	269.09	232.04	328.84	782.94	339.53	434.67	341.29	628.85
54	272.27	234.37	333.36	794.30	343.95	440.99	345.99	638.31
55	275.45	236.69	337.87	805.65	348.37	447.31	350.69	647.76
56	278.64	239.02	342.38	817.00	352.78	453.63	355.40	657.21
57	281.82	241.35	346.89	828.35	357.20	459.94	360.10	666.66
58	285.00	243.68	351.41	839.71	361.62	466.26	364.80	676.12
59	288.18	246.00	355.92	851.06	366.04	472.58	369.50	685.57
60	291.37	248.33	360.43	862.41	370.45	478.90	374.21	695.02
61	294.55	250.66	364.94	873.76	374.87	485.21	378.91	704.47
62	297.73	252.99	369.46	885.12	379.29	491.53	383.61	713.93
63	300.91	255.31	373.97	896.47	383.71	497.85	388.31	723.38
64	304.10	257.64	378.48	907.82	388.12	504.17	393.02	732.83
65	307.28	259.97	382.99	919.17	392.54	510.48	397.72	742.28
66	310.46	262.30	387.51	930.53	396.96	516.80	402.42	751.74
67	313.64	264.62	392.02	941.88	401.38	523.12	407.12	761.19
68	316.83	266.95	396.53	953.23	405.79	529.44	411.83	770.64
69	320.01	269.28	401.04	964.58	410.21	535.75	416.53	780.09
70	323.19	271.61	405.56	975.94	414.63	542.07	421.23	789.55

Global Express Guaranteed Commercial Plus Prices

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
0.5	56.95	62.65	72.44	118.51	79.75	84.31	62.65	97.61
1	67.21	68.16	82.13	134.85	92.72	95.90	74.34	109.68
2	71.82	74.20	88.35	149.25	99.04	103.36	83.22	122.36
3	76.43	80.23	94.57	163.64	105.36	110.82	92.10	135.04
4	81.04	86.26	100.80	178.03	111.67	118.28	100.99	147.73
5	85.45	92.29	107.02	192.42	117.99	125.73	109.87	160.41
6	89.87	97.95	112.58	206.82	124.31	133.19	115.71	172.81
7	94.29	103.60	118.13	221.21	130.63	140.65	121.55	185.20
8	98.71	109.25	123.69	235.60	136.94	148.11	127.40	197.60
9	103.12	114.90	129.25	249.99	143.26	155.56	133.24	210.00
10	107.54	120.56	134.81	264.39	149.58	163.02	139.08	222.40
11	111.77	124.02	139.32	278.78	154.00	169.34	143.78	231.85
12	116.00	127.49	143.83	293.17	158.41	175.66	148.49	241.30
13	120.22	130.96	148.34	307.56	162.83	181.97	153.19	250.75
14	124.45	134.43	152.86	321.96	167.25	188.29	157.89	260.21
15	128.68	137.89	157.37	336.35	171.67	194.61	162.59	269.66
16	132.91	141.36	161.88	350.74	176.08	200.93	167.30	279.11
17	137.13	144.83	166.39	365.13	180.50	207.24	172.00	288.56
18	141.36	148.30	170.91	379.53	184.92	213.56	176.70	298.02
19	145.59	151.76	175.42	393.92	189.34	219.88	181.40	307.47
20	149.82	155.23	179.93	408.31	193.75	226.20	186.11	316.92
21	154.04	157.56	184.44	419.66	198.17	232.51	190.81	326.37
22	158.27	159.89	188.96	431.02	202.59	238.83	195.51	335.83
23	162.50	162.21	193.47	442.37	207.01	245.15	200.21	345.28
24	166.73	164.54	197.98	453.72	211.42	251.47	204.92	354.73
25	170.95	166.87	202.49	465.07	215.84	257.78	209.62	364.18

Global Express Guaranteed Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
26	175.18	169.20	207.01	476.43	220.26	264.10	214.32	373.64
27	179.41	171.52	211.52	487.78	224.68	270.42	219.02	383.09
28	183.64	173.85	216.03	499.13	229.09	276.74	223.73	392.54
29	187.86	176.18	220.54	510.48	233.51	283.05	228.43	401.99
30	192.09	178.51	225.06	521.84	237.93	289.37	233.13	411.45
31	195.65	180.83	229.57	533.19	242.35	295.69	237.83	420.90
32	199.22	183.16	234.08	544.54	246.76	302.01	242.54	430.35
33	202.78	185.49	238.59	555.89	251.18	308.32	247.24	439.80
34	206.34	187.82	243.11	567.25	255.60	314.64	251.94	449.26
35	209.90	190.14	247.62	578.60	260.02	320.96	256.64	458.71
36	213.47	192.47	252.13	589.95	264.43	327.28	261.35	468.16
37	217.03	194.80	256.64	601.30	268.85	333.59	266.05	477.61
38	220.59	197.13	261.16	612.66	273.27	339.91	270.75	487.07
39	224.15	199.45	265.67	624.01	277.69	346.23	275.45	496.52
40	227.72	201.78	270.18	635.36	282.10	352.55	280.16	505.97
41	230.90	204.11	274.69	646.71	286.52	358.86	284.86	515.42
42	234.08	206.44	279.21	658.07	290.94	365.18	289.56	524.88
43	237.26	208.76	283.72	669.42	295.36	371.50	294.26	534.33
44	240.45	211.09	288.23	680.77	299.77	377.82	298.97	543.78
45	243.63	213.42	292.74	692.12	304.19	384.13	303.67	553.23
46	246.81	215.75	297.26	703.48	308.61	390.45	308.37	562.69
47	249.99	218.07	301.77	714.83	313.03	396.77	313.07	572.14
48	253.18	220.40	306.28	726.18	317.44	403.09	317.78	581.59
49	256.36	222.73	310.79	737.53	321.86	409.40	322.48	591.04
50	259.54	225.06	315.31	748.89	326.28	415.72	327.18	600.50

Global Express Guaranteed Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
51	262.72	227.38	319.82	760.24	330.70	422.04	331.88	609.95
52	265.91	229.71	324.33	771.59	335.11	428.36	336.59	619.40
53	269.09	232.04	328.84	782.94	339.53	434.67	341.29	628.85
54	272.27	234.37	333.36	794.30	343.95	440.99	345.99	638.31
55	275.45	236.69	337.87	805.65	348.37	447.31	350.69	647.76
56	278.64	239.02	342.38	817.00	352.78	453.63	355.40	657.21
57	281.82	241.35	346.89	828.35	357.20	459.94	360.10	666.66
58	285.00	243.68	351.41	839.71	361.62	466.26	364.80	676.12
59	288.18	246.00	355.92	851.06	366.04	472.58	369.50	685.57
60	291.37	248.33	360.43	862.41	370.45	478.90	374.21	695.02
61	294.55	250.66	364.94	873.76	374.87	485.21	378.91	704.47
62	297.73	252.99	369.46	885.12	379.29	491.53	383.61	713.93
63	300.91	255.31	373.97	896.47	383.71	497.85	388.31	723.38
64	304.10	257.64	378.48	907.82	388.12	504.17	393.02	732.83
65	307.28	259.97	382.99	919.17	392.54	510.48	397.72	742.28
66	310.46	262.30	387.51	930.53	396.96	516.80	402.42	751.74
67	313.64	264.62	392.02	941.88	401.38	523.12	407.12	761.19
68	316.83	266.95	396.53	953.23	405.79	529.44	411.83	770.64
69	320.01	269.28	401.04	964.58	410.21	535.75	416.53	780.09
70	323.19	271.61	405.56	975.94	414.63	542.07	421.23	789.55

Priority Mail Express International Flat Rate Retail Prices

	Country Price Group							
	~~Canada (Price Group 1)~~ 1 ($)	~~All Other Countries (Price Groups 2 through 17)~~ 2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	41.50	57.50	61.50	59.50	61.50	63.50	60.50	62.50
~~Flat Rate Box~~	~~71.50~~	~~90.95~~						

Priority Mail Express International Flat Rate Commercial Base Prices

	Country Price Group							
	~~Canada (Price Group 1)~~ 1 ($)	~~All Other Countries (Price Groups 2 through 17)~~ 2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	39.45	54.65	58.45	56.55	58.45	60.35	57.50	59.40
~~Flat Rate Box~~	~~65.75~~	~~83.75~~						

Priority Mail Express International Flat Rate Commercial Plus Prices

	Country Price Group							
	~~Canada (Price Group 1)~~ 1 ($)	~~All Other Countries (Price Groups 2 through 17)~~ 2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	39.45	54.65	58.45	56.55	58.45	60.35	57.50	59.40
~~Flat Rate Box~~	~~65.75~~	~~83.75~~						

Priority Mail Express International Retail Prices

Maximum Weight (pounds)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
0.5	40.95	52.00	54.75	63.50	58.25	58.25	58.95	56.00	53.95
1	44.75	54.15	58.85	64.75	60.00	61.85	64.50	60.95	58.45
2	49.50	57.95	64.25	69.85	63.90	66.50	70.85	66.05	63.00
3	54.25	61.75	69.65	74.95	67.80	71.15	77.20	71.15	67.55
4	59.00	65.55	75.05	80.05	71.70	75.80	83.55	76.25	72.10
5	63.75	69.35	80.45	85.15	75.60	80.45	89.90	81.35	76.65
6	68.50	72.15	84.35	90.35	79.50	85.10	96.25	86.15	81.00
7	73.25	74.95	88.25	95.55	83.40	89.75	102.60	90.95	85.35
8	78.00	77.75	92.15	100.75	87.30	94.40	108.95	95.75	89.70
9	82.75	80.55	96.05	105.95	91.20	99.05	115.30	100.55	94.05
10	87.50	83.35	99.95	111.15	95.10	103.70	121.65	105.35	98.40
11	92.05	86.05	103.35	116.25	99.00	108.35	127.90	110.25	102.75
12	96.60	88.75	106.75	121.35	102.90	113.00	134.15	115.15	107.10
13	101.15	91.45	110.15	126.45	106.80	117.65	140.40	120.05	111.45
14	105.70	94.15	113.55	131.55	110.70	122.30	146.65	124.95	115.80
15	110.25	96.85	116.95	136.65	114.60	126.95	152.90	129.85	120.15
16	114.80	99.55	120.35	141.75	118.50	131.60	159.15	134.75	124.50
17	119.35	102.25	123.75	146.85	122.40	136.25	165.40	139.65	128.85
18	123.90	104.95	127.15	151.95	126.30	140.90	171.65	144.55	133.20
19	128.45	107.65	130.55	157.05	130.20	145.55	177.90	149.45	137.55
20	133.00	110.35	133.95	162.15	134.10	150.20	184.15	154.35	141.90
21	137.55	113.05	137.35	167.25	138.00	154.85	190.40	159.25	146.25
22	142.10	115.75	140.75	172.35	141.90	159.50	196.65	164.15	150.60
23	146.65	118.45	144.15	177.45	145.80	164.15	202.90	169.05	154.95
24	151.20	121.15	147.55	182.55	149.70	168.80	209.15	173.95	159.30
25	155.75	123.85	150.95	187.65	153.60	173.45	215.40	178.85	163.65

Priority Mail Express International Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
0.5	62.95	60.75	59.50	60.75	60.00	61.25	60.75	60.75
1	65.75	62.50	66.25	62.50	61.50	64.50	62.00	62.25
2	71.80	66.75	71.50	65.65	67.40	68.75	64.95	65.00
3	77.85	71.00	76.75	68.80	73.30	73.00	67.90	67.75
4	83.90	75.25	82.00	71.95	79.20	77.25	70.85	70.50
5	89.95	79.50	87.25	75.10	85.10	81.50	73.80	73.25
6	96.20	82.65	92.00	78.25	91.15	85.75	76.65	76.00
7	102.45	85.80	96.75	81.40	97.20	90.00	79.50	78.75
8	108.70	88.95	101.50	84.55	103.25	94.25	82.35	81.50
9	114.95	92.10	106.25	87.70	109.30	98.50	85.20	84.25
10	121.20	95.25	111.00	90.85	115.35	102.75	88.05	87.00
11	127.45	98.40	115.15	94.10	121.70	107.00	91.50	90.35
12	133.70	101.55	119.30	97.35	128.05	111.25	94.95	93.70
13	139.95	104.70	123.45	100.60	134.40	115.50	98.40	97.05
14	146.20	107.85	127.60	103.85	140.75	119.75	101.85	100.40
15	152.45	111.00	131.75	107.10	147.10	124.00	105.30	103.75
16	158.70	114.15	135.90	110.35	153.45	128.25	108.75	107.10
17	164.95	117.30	140.05	113.60	159.80	132.50	112.20	110.45
18	171.20	120.45	144.20	116.85	166.15	136.75	115.65	113.80
19	177.45	123.60	148.35	120.10	172.50	141.00	119.10	117.15
20	183.70	126.75	152.50	123.35	178.85	145.25	122.55	120.50
21	189.95	129.90	156.65	126.60	184.50	149.50	126.00	123.85
22	196.20	133.05	160.80	129.85	190.15	153.75	129.45	127.20
23	202.45	136.20	164.95	133.10	195.80	158.00	132.90	130.55
24	208.70	139.35	169.10	136.35	201.45	162.25	136.35	133.90
25	214.95	142.50	173.25	139.60	207.10	166.50	139.80	137.25

Priority Mail Express International Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	160.30	126.55	154.35	192.75	157.50	178.10	221.65	183.75	168.00
27	164.85	129.25	157.75	197.85	161.40	182.75	227.90	188.65	172.35
28	169.40	131.95	161.15	202.95	165.30	187.40	234.15	193.55	176.70
29	173.95	134.65	164.55	208.05	169.20	192.05	240.40	198.45	181.05
30	178.50	137.35	167.95	213.15	173.10	196.70	246.65	203.35	185.40
31	182.35	140.05	171.35	218.25	177.00	201.35	252.90	208.25	189.75
32	186.20	142.75	174.75	223.35	180.90	206.00	259.15	213.15	194.10
33	190.05	145.45	178.15	228.45	184.80	210.65	265.40	218.05	198.45
34	193.90	148.15	181.55	233.55	188.70	215.30	271.65	222.95	202.80
35	197.75	150.85	184.95	238.65	192.60	219.95	277.90	227.85	207.15
36	201.60	153.55	188.35	243.75	196.50	224.60	284.15	232.75	211.50
37	205.45	156.25	191.75	248.85	200.40	229.25	290.40	237.65	215.85
38	209.30	158.95	195.15	253.95	204.30	233.90	296.65	242.55	220.20
39	213.15	161.65	198.55	259.05	208.20	238.55	302.90	247.45	224.55
40	217.00	164.35	201.95	264.15	212.10	243.20	309.15	252.35	228.90
41	220.85	167.05	205.35	269.25	216.00	247.85	315.40	257.25	233.25
42	224.70	169.75	208.75	274.35	219.90	252.50	321.65	262.15	237.60
43	228.55	172.45	212.15	279.45	223.80	257.15	327.90	267.05	241.95
44	232.40	175.15	215.55	284.55	227.70	261.80	334.15	271.95	246.30
45	236.25	177.85	218.95	289.65	231.60	266.45	340.40	276.85	250.65
46	240.10	180.55	222.35	294.75	235.50	271.10	346.65	281.75	255.00
47	243.95	183.25	225.75	299.85	239.40	275.75	352.90	286.65	259.35
48	247.80	185.95	229.15	304.95	243.30	280.40	359.15	291.55	263.70
49	251.65	188.65	232.55	310.05	247.20	285.05	365.40	296.45	268.05
50	255.50	191.35	235.95	315.15	251.10	289.70	371.65	301.35	272.40

Priority Mail Express International Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	221.20	145.65	177.40	142.85	212.75	170.75	143.25	140.60
27	227.45	148.80	181.55	146.10	218.40	175.00	146.70	143.95
28	233.70	151.95	185.70	149.35	224.05	179.25	150.15	147.30
29	239.95	155.10	189.85	152.60	229.70	183.50	153.60	150.65
30	246.20	158.25	194.00	155.85	235.35	187.75	157.05	154.00
31	252.45	161.40	198.15	159.10	241.00	192.00	160.50	157.35
32	258.70	164.55	202.30	162.35	246.65	196.25	163.95	160.70
33	264.95	167.70	206.45	165.60	252.30	200.50	167.40	164.05
34	271.20	170.85	210.60	168.85	257.95	204.75	170.85	167.40
35	277.45	174.00	214.75	172.10	263.60	209.00	174.30	170.75
36	283.70	177.15	218.90	175.35	269.25	213.25	177.75	174.10
37	289.95	180.30	223.05	178.60	274.90	217.50	181.20	177.45
38	296.20	183.45	227.20	181.85	280.55	221.75	184.65	180.80
39	302.45	186.60	231.35	185.10	286.20	226.00	188.10	184.15
40	308.70	189.75	235.50	188.35	291.85	230.25	191.55	187.50
41	314.95	192.90	239.65	191.60	297.50	234.50	195.00	190.85
42	321.20	196.05	243.80	194.85	303.15	238.75	198.45	194.20
43	327.45	199.20	247.95	198.10	308.80	243.00	201.90	197.55
44	333.70	202.35	252.10	201.35	314.45	247.25	205.35	200.90
45	339.95	205.50	256.25	204.60	320.10	251.50	208.80	204.25
46	346.20	208.65	260.40	207.85	325.75	255.75	212.25	207.60
47	352.45	211.80	264.55	211.10	331.40	260.00	215.70	210.95
48	358.70	214.95	268.70	214.35	337.05	264.25	219.15	214.30
49	364.95	218.10	272.85	217.60	342.70	268.50	222.60	217.65
50	371.20	221.25	277.00	220.85	348.35	272.75	226.05	221.00

Priority Mail Express International Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	259.35	194.05	239.35	320.25	255.00	294.35	377.90	306.25	276.75
52	263.20	196.75	242.75	325.35	258.90	299.00	384.15	311.15	281.10
53	267.05	199.45	246.15	330.45	262.80	303.65	390.40	316.05	285.45
54	270.90	202.15	249.55	335.55	266.70	308.30	396.65	320.95	289.80
55	274.75	204.85	252.95	340.65	270.60	312.95	402.90	325.85	294.15
56	278.60	207.55	256.35	345.75	274.50	317.60	409.15	330.75	298.50
57	282.45	210.25	259.75	350.85	278.40	322.25	415.40	335.65	302.85
58	286.30	212.95	263.15	355.95	282.30	326.90	421.65	340.55	307.20
59	290.15	215.65	266.55	361.05	286.20	331.55	427.90	345.45	311.55
60	294.00	218.35	269.95	366.15	290.10	336.20	434.15	350.35	315.90
61	297.85	221.05	273.35	371.25	294.00	340.85	440.40	355.25	320.25
62	301.70	223.75	276.75	376.35	297.90	345.50	446.65	360.15	324.60
63	305.55	226.45	280.15	381.45	301.80	350.15	452.90	365.05	328.95
64	309.40	229.15	283.55	386.55	305.70	354.80	459.15	369.95	333.30
65	313.25	231.85	286.95	391.65	309.60	359.45	465.40	374.85	337.65
66	317.10	234.55	290.35	396.75	313.50	364.10	471.65	379.75	342.00
67	-	237.25	293.75	401.85	317.40	368.75	477.90	384.65	346.35
68	-	239.95	297.15	406.95	321.30	373.40	484.15	389.55	350.70
69	-	242.65	300.55	412.05	325.20	378.05	490.40	394.45	355.05
70	-	245.35	303.95	417.15	329.10	382.70	496.65	399.35	359.40

Priority Mail Express International Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	377.45	224.40	281.15	224.10	354.00	277.00	229.50	224.35
52	383.70	227.55	285.30	227.35	359.65	281.25	232.95	227.70
53	389.95	230.70	289.45	230.60	365.30	285.50	236.40	231.05
54	396.20	233.85	293.60	233.85	370.95	289.75	239.85	234.40
55	402.45	237.00	297.75	237.10	376.60	294.00	243.30	237.75
56	408.70	240.15	301.90	240.35	382.25	298.25	246.75	241.10
57	414.95	243.30	306.05	243.60	387.90	302.50	250.20	244.45
58	421.20	246.45	310.20	246.85	393.55	306.75	253.65	247.80
59	427.45	249.60	314.35	250.10	399.20	311.00	257.10	251.15
60	433.70	252.75	318.50	253.35	404.85	315.25	260.55	254.50
61	439.95	255.90	322.65	256.60	410.50	319.50	264.00	257.85
62	446.20	259.05	326.80	259.85	416.15	323.75	267.45	261.20
63	452.45	262.20	330.95	263.10	421.80	328.00	270.90	264.55
64	458.70	265.35	335.10	266.35	427.45	332.25	274.35	267.90
65	464.95	268.50	339.25	269.60	433.10	336.50	277.80	271.25
66	471.20	271.65	343.40	272.85	438.75	340.75	281.25	274.60
67	-	-	-	-	-	-	-	-
68	-	-	-	-	-	-	-	-
69	-	-	-	-	-	-	-	-
70	-	-	-	-	-	-	-	-

Priority Mail Express International Commercial Base Prices

Maximum Weight (pounds)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
0.5	38.90	49.40	52.01	60.33	55.34	55.34	56.00	53.20	51.25
1	42.51	51.44	55.91	61.51	57.00	58.76	61.28	57.90	55.53
2	47.03	55.05	61.04	66.36	60.71	63.18	67.31	62.75	59.85
3	51.54	58.66	66.17	71.20	64.41	67.59	73.34	67.59	64.17
4	56.05	62.27	71.30	76.05	68.12	72.01	79.37	72.44	68.50
5	60.56	65.88	76.43	80.89	71.82	76.43	85.41	77.28	72.82
6	65.08	68.54	80.13	85.83	75.53	80.85	91.44	81.84	76.95
7	69.59	71.20	83.84	90.77	79.23	85.26	97.47	86.40	81.08
8	74.10	73.86	87.54	95.71	82.94	89.68	103.50	90.96	85.22
9	78.61	76.52	91.25	100.65	86.64	94.10	109.54	95.52	89.35
10	83.13	79.18	94.95	105.59	90.35	98.52	115.57	100.08	93.48
11	87.45	81.75	98.18	110.44	94.05	102.93	121.51	104.74	97.61
12	91.77	84.31	101.41	115.28	97.76	107.35	127.44	109.39	101.75
13	96.09	86.88	104.64	120.13	101.46	111.77	133.38	114.05	105.88
14	100.42	89.44	107.87	124.97	105.17	116.19	139.32	118.70	110.01
15	104.74	92.01	111.10	129.82	108.87	120.60	145.26	123.36	114.14
16	109.06	94.57	114.33	134.66	112.58	125.02	151.19	128.01	118.28
17	113.38	97.14	117.56	139.51	116.28	129.44	157.13	132.67	122.41
18	117.71	99.70	120.79	144.35	119.99	133.86	163.07	137.32	126.54
19	122.03	102.27	124.02	149.20	123.69	138.27	169.01	141.98	130.67
20	126.35	104.83	127.25	154.04	127.40	142.69	174.94	146.63	134.81
21	130.67	107.40	130.48	158.89	131.10	147.11	180.88	151.29	138.94
22	135.00	109.96	133.71	163.73	134.81	151.53	186.82	155.94	143.07
23	139.32	112.53	136.94	168.58	138.51	155.94	192.76	160.60	147.20
24	143.64	115.09	140.17	173.42	142.22	160.36	198.69	165.25	151.34
25	147.96	117.66	143.40	178.27	145.92	164.78	204.63	169.91	155.47

Priority Mail Express International Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
0.5	59.80	57.71	56.53	57.71	57.00	58.19	57.71	57.71
1	62.46	59.38	62.94	59.38	58.43	61.28	58.90	59.14
2	68.21	63.41	67.93	62.37	64.03	65.31	61.70	61.75
3	73.96	67.45	72.91	65.36	69.64	69.35	64.51	64.36
4	79.71	71.49	77.90	68.35	75.24	73.39	67.31	66.98
5	85.45	75.53	82.89	71.35	80.85	77.43	70.11	69.59
6	91.39	78.52	87.40	74.34	86.59	81.46	72.82	72.20
7	97.33	81.51	91.91	77.33	92.34	85.50	75.53	74.81
8	103.27	84.50	96.43	80.32	98.09	89.54	78.23	77.43
9	109.20	87.50	100.94	83.32	103.84	93.58	80.94	80.04
10	115.14	90.49	105.45	86.31	109.58	97.61	83.65	82.65
11	121.08	93.48	109.39	89.40	115.62	101.65	86.93	85.83
12	127.02	96.47	113.34	92.48	121.65	105.69	90.20	89.02
13	132.95	99.47	117.28	95.57	127.68	109.73	93.48	92.20
14	138.89	102.46	121.22	98.66	133.71	113.76	96.76	95.38
15	144.83	105.45	125.16	101.75	139.75	117.80	100.04	98.56
16	150.77	108.44	129.11	104.83	145.78	121.84	103.31	101.75
17	156.70	111.44	133.05	107.92	151.81	125.88	106.59	104.93
18	162.64	114.43	136.99	111.01	157.84	129.91	109.87	108.11
19	168.58	117.42	140.93	114.10	163.88	133.95	113.15	111.29
20	174.52	120.41	144.88	117.18	169.91	137.99	116.42	114.48
21	180.45	123.41	148.82	120.27	175.28	142.03	119.70	117.66
22	186.39	126.40	152.76	123.36	180.64	146.06	122.98	120.84
23	192.33	129.39	156.70	126.45	186.01	150.10	126.26	124.02
24	198.27	132.38	160.65	129.53	191.38	154.14	129.53	127.21
25	204.20	135.38	164.59	132.62	196.75	158.18	132.81	130.39

Priority Mail Express International Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	152.29	120.22	146.63	183.11	149.63	169.20	210.57	174.56	159.60
27	156.61	122.79	149.86	187.96	153.33	173.61	216.51	179.22	163.73
28	160.93	125.35	153.09	192.80	157.04	178.03	222.44	183.87	167.87
29	165.25	127.92	156.32	197.65	160.74	182.45	228.38	188.53	172.00
30	169.58	130.48	159.55	202.49	164.45	186.87	234.32	193.18	176.13
31	173.23	133.05	162.78	207.34	168.15	191.28	240.26	197.84	180.26
32	176.89	135.61	166.01	212.18	171.86	195.70	246.19	202.49	184.40
33	180.55	138.18	169.24	217.03	175.56	200.12	252.13	207.15	188.53
34	184.21	140.74	172.47	221.87	179.27	204.54	258.07	211.80	192.66
35	187.86	143.31	175.70	226.72	182.97	208.95	264.01	216.46	196.79
36	191.52	145.87	178.93	231.56	186.68	213.37	269.94	221.11	200.93
37	195.18	148.44	182.16	236.41	190.38	217.79	275.88	225.77	205.06
38	198.84	151.00	185.39	241.25	194.09	222.21	281.82	230.42	209.19
39	202.49	153.57	188.62	246.10	197.79	226.62	287.76	235.08	213.32
40	206.15	156.13	191.85	250.94	201.50	231.04	293.69	239.73	217.46
41	209.81	158.70	195.08	255.79	205.20	235.46	299.63	244.39	221.59
42	213.47	161.26	198.31	260.63	208.91	239.88	305.57	249.04	225.72
43	217.12	163.83	201.54	265.48	212.61	244.29	311.51	253.70	229.85
44	220.78	166.39	204.77	270.32	216.32	248.71	317.44	258.35	233.99
45	224.44	168.96	208.00	275.17	220.02	253.13	323.38	263.01	238.12
46	228.10	171.52	211.23	280.01	223.73	257.55	329.32	267.66	242.25
47	231.75	174.09	214.46	284.86	227.43	261.96	335.26	272.32	246.38
48	235.41	176.65	217.69	289.70	231.14	266.38	341.19	276.97	250.52
49	239.07	179.22	220.92	294.55	234.84	270.80	347.13	281.63	254.65
50	242.73	181.78	224.15	299.39	238.55	275.22	353.07	286.28	258.78

Priority Mail Express International Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	210.14	138.37	168.53	135.71	202.11	162.21	136.09	133.57
27	216.08	141.36	172.47	138.80	207.48	166.25	139.37	136.75
28	222.02	144.35	176.42	141.88	212.85	170.29	142.64	139.94
29	227.95	147.35	180.36	144.97	218.22	174.33	145.92	143.12
30	233.89	150.34	184.30	148.06	223.58	178.36	149.20	146.30
31	239.83	153.33	188.24	151.15	228.95	182.40	152.48	149.48
32	245.77	156.32	192.19	154.23	234.32	186.44	155.75	152.67
33	251.70	159.32	196.13	157.32	239.69	190.48	159.03	155.85
34	257.64	162.31	200.07	160.41	245.05	194.51	162.31	159.03
35	263.58	165.30	204.01	163.50	250.42	198.55	165.59	162.21
36	269.52	168.29	207.96	166.58	255.79	202.59	168.86	165.40
37	275.45	171.29	211.90	169.67	261.16	206.63	172.14	168.58
38	281.39	174.28	215.84	172.76	266.52	210.66	175.42	171.76
39	287.33	177.27	219.78	175.85	271.89	214.70	178.70	174.94
40	293.27	180.26	223.73	178.93	277.26	218.74	181.97	178.13
41	299.20	183.26	227.67	182.02	282.63	222.78	185.25	181.31
42	305.14	186.25	231.61	185.11	287.99	226.81	188.53	184.49
43	311.08	189.24	235.55	188.20	293.36	230.85	191.81	187.67
44	317.02	192.23	239.50	191.28	298.73	234.89	195.08	190.86
45	322.95	195.23	243.44	194.37	304.10	238.93	198.36	194.04
46	328.89	198.22	247.38	197.46	309.46	242.96	201.64	197.22
47	334.83	201.21	251.32	200.55	314.83	247.00	204.92	200.40
48	340.77	204.20	255.27	203.63	320.20	251.04	208.19	203.59
49	346.70	207.20	259.21	206.72	325.57	255.08	211.47	206.77
50	352.64	210.19	263.15	209.81	330.93	259.11	214.75	209.95

Priority Mail Express International Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	246.38	184.35	227.38	304.24	242.25	279.63	359.01	290.94	262.91
52	250.04	186.91	230.61	309.08	245.96	284.05	364.94	295.59	267.05
53	253.70	189.48	233.84	313.93	249.66	288.47	370.88	300.25	271.18
54	257.36	192.04	237.07	318.77	253.37	292.89	376.82	304.90	275.31
55	261.01	194.61	240.30	323.62	257.07	297.30	382.76	309.56	279.44
56	264.67	197.17	243.53	328.46	260.78	301.72	388.69	314.21	283.58
57	268.33	199.74	246.76	333.31	264.48	306.14	394.63	318.87	287.71
58	271.99	202.30	249.99	338.15	268.19	310.56	400.57	323.52	291.84
59	275.64	204.87	253.22	343.00	271.89	314.97	406.51	328.18	295.97
60	279.30	207.43	256.45	347.84	275.60	319.39	412.44	332.83	300.11
61	282.96	210.00	259.68	352.69	279.30	323.81	418.38	337.49	304.24
62	286.62	212.56	262.91	357.53	283.01	328.23	424.32	342.14	308.37
63	290.27	215.13	266.14	362.38	286.71	332.64	430.26	346.80	312.50
64	293.93	217.69	269.37	367.22	290.42	337.06	436.19	351.45	316.64
65	297.59	220.26	272.60	372.07	294.12	341.48	442.13	356.11	320.77
66	301.25	222.82	275.83	376.91	297.83	345.90	448.07	360.76	324.90
67	-	225.39	279.06	381.76	301.53	350.31	454.01	365.42	329.03
68	-	227.95	282.29	386.60	305.24	354.73	459.94	370.07	333.17
69	-	230.52	285.52	391.45	308.94	359.15	465.88	374.73	337.30
70	-	233.08	288.75	396.29	312.65	363.57	471.82	379.38	341.43

Priority Mail Express International Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	358.58	213.18	267.09	212.90	336.30	263.15	218.03	213.13
52	364.52	216.17	271.04	215.98	341.67	267.19	221.30	216.32
53	370.45	219.17	274.98	219.07	347.04	271.23	224.58	219.50
54	376.39	222.16	278.92	222.16	352.40	275.26	227.86	222.68
55	382.33	225.15	282.86	225.25	357.77	279.30	231.14	225.86
56	388.27	228.14	286.81	228.33	363.14	283.34	234.41	229.05
57	394.20	231.14	290.75	231.42	368.51	287.38	237.69	232.23
58	400.14	234.13	294.69	234.51	373.87	291.41	240.97	235.41
59	406.08	237.12	298.63	237.60	379.24	295.45	244.25	238.59
60	412.02	240.11	302.58	240.68	384.61	299.49	247.52	241.78
61	417.95	243.11	306.52	243.77	389.98	303.53	250.80	244.96
62	423.89	246.10	310.46	246.86	395.34	307.56	254.08	248.14
63	429.83	249.09	314.40	249.95	400.71	311.60	257.36	251.32
64	435.77	252.08	318.35	253.03	406.08	315.64	260.63	254.51
65	441.70	255.08	322.29	256.12	411.45	319.68	263.91	257.69
66	447.64	258.07	326.23	259.21	416.81	323.71	267.19	260.87
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	38.90	49.40	52.01	60.33	55.34	55.34	56.00	53.20	51.25
1	42.51	51.44	55.91	61.51	57.00	58.76	61.28	57.90	55.53
2	47.03	55.05	61.04	66.36	60.71	63.18	67.31	62.75	59.85
3	51.54	58.66	66.17	71.20	64.41	67.59	73.34	67.59	64.17
4	56.05	62.27	71.30	76.05	68.12	72.01	79.37	72.44	68.50
5	60.56	65.88	76.43	80.89	71.82	76.43	85.41	77.28	72.82
6	65.08	68.54	80.13	85.83	75.53	80.85	91.44	81.84	76.95
7	69.59	71.20	83.84	90.77	79.23	85.26	97.47	86.40	81.08
8	74.10	73.86	87.54	95.71	82.94	89.68	103.50	90.96	85.22
9	78.61	76.52	91.25	100.65	86.64	94.10	109.54	95.52	89.35
10	83.13	79.18	94.95	105.59	90.35	98.52	115.57	100.08	93.48
11	87.45	81.75	98.18	110.44	94.05	102.93	121.51	104.74	97.61
12	91.77	84.31	101.41	115.28	97.76	107.35	127.44	109.39	101.75
13	96.09	86.88	104.64	120.13	101.46	111.77	133.38	114.05	105.88
14	100.42	89.44	107.87	124.97	105.17	116.19	139.32	118.70	110.01
15	104.74	92.01	111.10	129.82	108.87	120.60	145.26	123.36	114.14
16	109.06	94.57	114.33	134.66	112.58	125.02	151.19	128.01	118.28
17	113.38	97.14	117.56	139.51	116.28	129.44	157.13	132.67	122.41
18	117.71	99.70	120.79	144.35	119.99	133.86	163.07	137.32	126.54
19	122.03	102.27	124.02	149.20	123.69	138.27	169.01	141.98	130.67
20	126.35	104.83	127.25	154.04	127.40	142.69	174.94	146.63	134.81
21	130.67	107.40	130.48	158.89	131.10	147.11	180.88	151.29	138.94
22	135.00	109.96	133.71	163.73	134.81	151.53	186.82	155.94	143.07
23	139.32	112.53	136.94	168.58	138.51	155.94	192.76	160.60	147.20
24	143.64	115.09	140.17	173.42	142.22	160.36	198.69	165.25	151.34
25	147.96	117.66	143.40	178.27	145.92	164.78	204.63	169.91	155.47

Priority Mail Express International Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
0.5	59.80	57.71	56.53	57.71	57.00	58.19	57.71	57.71
1	62.46	59.38	62.94	59.38	58.43	61.28	58.90	59.14
2	68.21	63.41	67.93	62.37	64.03	65.31	61.70	61.75
3	73.96	67.45	72.91	65.36	69.64	69.35	64.51	64.36
4	79.71	71.49	77.90	68.35	75.24	73.39	67.31	66.98
5	85.45	75.53	82.89	71.35	80.85	77.43	70.11	69.59
6	91.39	78.52	87.40	74.34	86.59	81.46	72.82	72.20
7	97.33	81.51	91.91	77.33	92.34	85.50	75.53	74.81
8	103.27	84.50	96.43	80.32	98.09	89.54	78.23	77.43
9	109.20	87.50	100.94	83.32	103.84	93.58	80.94	80.04
10	115.14	90.49	105.45	86.31	109.58	97.61	83.65	82.65
11	121.08	93.48	109.39	89.40	115.62	101.65	86.93	85.83
12	127.02	96.47	113.34	92.48	121.65	105.69	90.20	89.02
13	132.95	99.47	117.28	95.57	127.68	109.73	93.48	92.20
14	138.89	102.46	121.22	98.66	133.71	113.76	96.76	95.38
15	144.83	105.45	125.16	101.75	139.75	117.80	100.04	98.56
16	150.77	108.44	129.11	104.83	145.78	121.84	103.31	101.75
17	156.70	111.44	133.05	107.92	151.81	125.88	106.59	104.93
18	162.64	114.43	136.99	111.01	157.84	129.91	109.87	108.11
19	168.58	117.42	140.93	114.10	163.88	133.95	113.15	111.29
20	174.52	120.41	144.88	117.18	169.91	137.99	116.42	114.48
21	180.45	123.41	148.82	120.27	175.28	142.03	119.70	117.66
22	186.39	126.40	152.76	123.36	180.64	146.06	122.98	120.84
23	192.33	129.39	156.70	126.45	186.01	150.10	126.26	124.02
24	198.27	132.38	160.65	129.53	191.38	154.14	129.53	127.21
25	204.20	135.38	164.59	132.62	196.75	158.18	132.81	130.39

Priority Mail Express International Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	152.29	120.22	146.63	183.11	149.63	169.20	210.57	174.56	159.60
27	156.61	122.79	149.86	187.96	153.33	173.61	216.51	179.22	163.73
28	160.93	125.35	153.09	192.80	157.04	178.03	222.44	183.87	167.87
29	165.25	127.92	156.32	197.65	160.74	182.45	228.38	188.53	172.00
30	169.58	130.48	159.55	202.49	164.45	186.87	234.32	193.18	176.13
31	173.23	133.05	162.78	207.34	168.15	191.28	240.26	197.84	180.26
32	176.89	135.61	166.01	212.18	171.86	195.70	246.19	202.49	184.40
33	180.55	138.18	169.24	217.03	175.56	200.12	252.13	207.15	188.53
34	184.21	140.74	172.47	221.87	179.27	204.54	258.07	211.80	192.66
35	187.86	143.31	175.70	226.72	182.97	208.95	264.01	216.46	196.79
36	191.52	145.87	178.93	231.56	186.68	213.37	269.94	221.11	200.93
37	195.18	148.44	182.16	236.41	190.38	217.79	275.88	225.77	205.06
38	198.84	151.00	185.39	241.25	194.09	222.21	281.82	230.42	209.19
39	202.49	153.57	188.62	246.10	197.79	226.62	287.76	235.08	213.32
40	206.15	156.13	191.85	250.94	201.50	231.04	293.69	239.73	217.46
41	209.81	158.70	195.08	255.79	205.20	235.46	299.63	244.39	221.59
42	213.47	161.26	198.31	260.63	208.91	239.88	305.57	249.04	225.72
43	217.12	163.83	201.54	265.48	212.61	244.29	311.51	253.70	229.85
44	220.78	166.39	204.77	270.32	216.32	248.71	317.44	258.35	233.99
45	224.44	168.96	208.00	275.17	220.02	253.13	323.38	263.01	238.12
46	228.10	171.52	211.23	280.01	223.73	257.55	329.32	267.66	242.25
47	231.75	174.09	214.46	284.86	227.43	261.96	335.26	272.32	246.38
48	235.41	176.65	217.69	289.70	231.14	266.38	341.19	276.97	250.52
49	239.07	179.22	220.92	294.55	234.84	270.80	347.13	281.63	254.65
50	242.73	181.78	224.15	299.39	238.55	275.22	353.07	286.28	258.78

Priority Mail Express International Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	210.14	138.37	168.53	135.71	202.11	162.21	136.09	133.57
27	216.08	141.36	172.47	138.80	207.48	166.25	139.37	136.75
28	222.02	144.35	176.42	141.88	212.85	170.29	142.64	139.94
29	227.95	147.35	180.36	144.97	218.22	174.33	145.92	143.12
30	233.89	150.34	184.30	148.06	223.58	178.36	149.20	146.30
31	239.83	153.33	188.24	151.15	228.95	182.40	152.48	149.48
32	245.77	156.32	192.19	154.23	234.32	186.44	155.75	152.67
33	251.70	159.32	196.13	157.32	239.69	190.48	159.03	155.85
34	257.64	162.31	200.07	160.41	245.05	194.51	162.31	159.03
35	263.58	165.30	204.01	163.50	250.42	198.55	165.59	162.21
36	269.52	168.29	207.96	166.58	255.79	202.59	168.86	165.40
37	275.45	171.29	211.90	169.67	261.16	206.63	172.14	168.58
38	281.39	174.28	215.84	172.76	266.52	210.66	175.42	171.76
39	287.33	177.27	219.78	175.85	271.89	214.70	178.70	174.94
40	293.27	180.26	223.73	178.93	277.26	218.74	181.97	178.13
41	299.20	183.26	227.67	182.02	282.63	222.78	185.25	181.31
42	305.14	186.25	231.61	185.11	287.99	226.81	188.53	184.49
43	311.08	189.24	235.55	188.20	293.36	230.85	191.81	187.67
44	317.02	192.23	239.50	191.28	298.73	234.89	195.08	190.86
45	322.95	195.23	243.44	194.37	304.10	238.93	198.36	194.04
46	328.89	198.22	247.38	197.46	309.46	242.96	201.64	197.22
47	334.83	201.21	251.32	200.55	314.83	247.00	204.92	200.40
48	340.77	204.20	255.27	203.63	320.20	251.04	208.19	203.59
49	346.70	207.20	259.21	206.72	325.57	255.08	211.47	206.77
50	352.64	210.19	263.15	209.81	330.93	259.11	214.75	209.95

Priority Mail Express International Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	246.38	184.35	227.38	304.24	242.25	279.63	359.01	290.94	262.91
52	250.04	186.91	230.61	309.08	245.96	284.05	364.94	295.59	267.05
53	253.70	189.48	233.84	313.93	249.66	288.47	370.88	300.25	271.18
54	257.36	192.04	237.07	318.77	253.37	292.89	376.82	304.90	275.31
55	261.01	194.61	240.30	323.62	257.07	297.30	382.76	309.56	279.44
56	264.67	197.17	243.53	328.46	260.78	301.72	388.69	314.21	283.58
57	268.33	199.74	246.76	333.31	264.48	306.14	394.63	318.87	287.71
58	271.99	202.30	249.99	338.15	268.19	310.56	400.57	323.52	291.84
59	275.64	204.87	253.22	343.00	271.89	314.97	406.51	328.18	295.97
60	279.30	207.43	256.45	347.84	275.60	319.39	412.44	332.83	300.11
61	282.96	210.00	259.68	352.69	279.30	323.81	418.38	337.49	304.24
62	286.62	212.56	262.91	357.53	283.01	328.23	424.32	342.14	308.37
63	290.27	215.13	266.14	362.38	286.71	332.64	430.26	346.80	312.50
64	293.93	217.69	269.37	367.22	290.42	337.06	436.19	351.45	316.64
65	297.59	220.26	272.60	372.07	294.12	341.48	442.13	356.11	320.77
66	301.25	222.82	275.83	376.91	297.83	345.90	448.07	360.76	324.90
67	-	225.39	279.06	381.76	301.53	350.31	454.01	365.42	329.03
68	-	227.95	282.29	386.60	305.24	354.73	459.94	370.07	333.17
69	-	230.52	285.52	391.45	308.94	359.15	465.88	374.73	337.30
70	-	233.08	288.75	396.29	312.65	363.57	471.82	379.38	341.43

Priority Mail Express International Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	358.58	213.18	267.09	212.90	336.30	263.15	218.03	213.13
52	364.52	216.17	271.04	215.98	341.67	267.19	221.30	216.32
53	370.45	219.17	274.98	219.07	347.04	271.23	224.58	219.50
54	376.39	222.16	278.92	222.16	352.40	275.26	227.86	222.68
55	382.33	225.15	282.86	225.25	357.77	279.30	231.14	225.86
56	388.27	228.14	286.81	228.33	363.14	283.34	234.41	229.05
57	394.20	231.14	290.75	231.42	368.51	287.38	237.69	232.23
58	400.14	234.13	294.69	234.51	373.87	291.41	240.97	235.41
59	406.08	237.12	298.63	237.60	379.24	295.45	244.25	238.59
60	412.02	240.11	302.58	240.68	384.61	299.49	247.52	241.78
61	417.95	243.11	306.52	243.77	389.98	303.53	250.80	244.96
62	423.89	246.10	310.46	246.86	395.34	307.56	254.08	248.14
63	429.83	249.09	314.40	249.95	400.71	311.60	257.36	251.32
64	435.77	252.08	318.35	253.03	406.08	315.64	260.63	254.51
65	441.70	255.08	322.29	256.12	411.45	319.68	263.91	257.69
66	447.64	258.07	326.23	259.21	416.81	323.71	267.19	260.87
67	-	-	-	-	-	-	-	-
68	-	-	-	-	-	-	-	-
69	-	-	-	-	-	-	-	-
70	-	-	-	-	-	-	-	-

Pickup On Demand Service

Add $20.00 for each Pickup On Demand stop.

* * *

2315 Outbound Priority Mail International

2315.1 Description

a. Outbound Priority Mail International items may be mailed as Priority Mail International Flat Rate Envelopes, Priority Mail International Flat Rate Boxes, or Priority Mail International parcels.

b. All items that may be sent using First-Class Mail international service, including written correspondence having the nature of current and personal correspondence, may be sent in Priority Mail International Flat Rate Envelopes or Small Flat Rate Boxes.

c. Only Priority Mail International Flat Rate Envelopes and Small Flat Rate Boxes (except when used as Free Matter for the Blind or Other Physically Handicapped Persons) are sealed against inspection and shall not be opened except as authorized by law.

d. Priority Mail International parcel service is designed for the carriage of outbound international postal parcels. Written communication having the nature of current and personal correspondence may be included, provided it is exchanged between the sender and the addressee or other persons living with the addressee. Archived correspondence (*e.g.*, personnel records) is also permitted and may be sent to any addressee. ~~Indemnity for ordinary, uninsured parcels is included in the price of postage based on the weight of the item.~~

e. For selected destination countries, discounts for permit imprint accounts, online preparation and payment, or for use of an authorized PC Postage vendor may apply.

f. Document reconstruction up to $100.00 and merchandise insurance up to $200.00 is included in the price of postage. Additional merchandise insurance may be purchased at the time of mailing. Additional document reconstruction insurance may not be purchased.

* * *

2315.4 Price Categories

The following price categories are available for the product specified in this section:

- Priority Mail International Flat Rate Envelope – Envelope provided or approved by the Postal Service
  - ~~Canada~~
  - ~~All other countries~~
  - Price Groups 1-8

- Priority Mail International Flat Rate Boxes – Boxes provided or approved by the Postal Service
  - ~~Canada~~
  - ~~All other countries~~
  - Price Groups 1-8

- Priority Mail International Parcels Retail
  ~~Subject to the provisions of the Universal Postal Convention, ordinary, uninsured Priority Mail International parcels include indemnity coverage in the postage prices. Indemnity is limited to the lesser of the actual value of the contents or the maximum indemnity based on weight.~~
  - Price Groups 1-17

- Commercial Base
  For selected destination countries, available for customers who prepare and pay for Priority Mail International shipments via Postal Service-approved payment methods that electronically transmit customs-related functions. The discount applies only to the postage portion of Priority Mail International prices.
  - Price Groups 1-17

- Commercial Plus
  For selected destination countries, available for customers who use specifically authorized postage payment methods and must tender at least $100,000.00 per year of any combination of Priority Mail International, Priority Mail Express International, Global Express Guaranteed, or Outbound Single-Piece First-Class Package International Service items. The discount applies only to the postage portion of Priority Mail International prices. Mail tendered under an Outbound International Negotiated Service Agreement may be used to satisfy the $100,000.00 per year commitment.
  - Price Groups 1-17

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~~2315.6 Indemnity~~

~~The indemnity amount is determined by the formula in UPU Parcel Post Regulations Article RC 149.2.1. This information is available in the Parcel Post Manual at www.upu.int. The formula, converted into US equivalents of pounds and dollars, is shown in the International Mail Manual. It is updated annually to reflect the current SDR exchange rate.~~

2315.~~7~~6 Prices

Priority Mail International Flat Rate Retail Prices

	Country Price Group							
	~~Canada (Price Group 1)~~ 1 ($)	~~All Other Countries (Price Groups 2 through 17)~~ 2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	23.95	29.95	30.95	32.95	31.95	33.95	31.95	32.95
Letter Post Flat Rate Boxes	24.95	30.95	31.95	33.95	32.95	34.95	32.95	33.95
Medium Flat Rate Boxes	45.95	66.95	67.95	66.50	69.95	75.95	68.95	71.95
Large Flat Rate Boxes	59.95	86.95	88.95	86.95	90.95	95.95	89.95	93.95

Priority Mail International Flat Rate Commercial Base Prices[1]

	Country Price Group							
	~~Canada (Price Group 1)~~ 1 ($)	~~All Other Countries (Price Groups 2 through 17)~~ 2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	22.75	28.45	29.40	31.30	30.35	32.25	30.35	31.30
Letter Post Flat Rate Boxes	23.70	29.40	30.35	32.25	31.30	33.20	31.30	32.25
Medium Flat Rate Boxes	43.65	63.60	64.55	63.20	66.45	72.15	65.50	68.35
Large Flat Rate Boxes	56.95	82.60	84.50	82.60	86.40	91.15	85.45	89.25

Notes

1. Electronic USPS Delivery Confirmation International, which is optionally provided at no charge, offers scan events for customers using select software or online tools. It is available for certain Priority Mail International Flat Rate Envelopes and Small Flat Rate Box offerings to select destinations.

Priority Mail International Flat Rate Commercial Plus Prices[1]

	Country Price Group							
	~~Canada (Price Group 1)~~ 1 ($)	~~All Other Countries (Price Groups 2 through 17)~~ 2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	22.75	28.45	29.40	31.30	30.35	32.25	30.35	31.30
Letter Post Flat Rate Boxes	23.70	29.40	30.35	32.25	31.30	33.20	31.30	32.25
Medium Flat Rate Boxes	43.65	63.60	64.55	63.20	66.45	72.15	65.50	68.35
Large Flat Rate Boxes	56.95	82.60	84.50	82.60	86.40	91.15	85.45	89.25

Notes

1. Electronic USPS Delivery Confirmation International, which is optionally provided at no charge, offers scan events for customers using select software or online tools. It is available for certain Priority Mail International Flat Rate Envelopes and Small Flat Rate Box offerings to select destinations.

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	31.75	32.75	35.00	36.00	37.50	38.00	38.50
2	34.30	35.40	37.75	38.95	40.45	40.95	41.55
3	36.85	38.05	40.50	41.90	43.40	43.90	44.60
4	39.40	40.70	43.25	44.85	46.35	46.85	47.65
5	41.95	43.35	46.00	47.80	49.30	49.80	50.70
6	44.50	46.00	48.85	50.75	52.25	52.85	53.75
7	47.05	48.65	51.70	53.70	55.20	55.90	56.80
8	49.60	51.30	54.55	56.65	58.15	58.95	59.85
9	52.15	53.95	57.40	59.60	61.10	62.00	62.90
10	54.70	56.60	60.25	62.55	64.05	65.05	65.95
11	57.15	59.25	62.90	65.50	67.00	68.10	69.00
12	59.60	61.90	65.55	68.45	69.95	71.15	72.35
13	62.05	64.55	68.20	71.40	72.90	74.20	75.70
14	64.50	67.20	70.85	74.35	75.85	77.25	79.05
15	66.95	69.85	73.50	77.30	78.80	80.30	82.40
16	69.40	72.50	76.15	80.25	81.75	83.35	85.75
17	71.85	75.15	78.80	83.20	84.70	86.40	89.10
18	74.30	77.80	81.45	86.15	87.65	89.45	92.45
19	76.75	80.45	84.10	89.10	90.60	92.50	95.80
20	79.20	83.10	86.75	92.05	93.55	95.55	99.15
21	81.65	85.75	89.40	95.00	96.50	98.60	102.50
22	84.10	88.40	92.05	97.95	99.45	101.65	105.85
23	86.55	91.05	94.70	100.90	102.40	104.70	109.20
24	88.70	93.70	97.35	103.85	105.35	107.75	112.55
25	90.85	96.35	100.00	106.80	108.30	110.80	115.90

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	38.75	41.75	48.00	44.25	45.75	47.00	42.75	41.50
2	42.30	46.70	53.05	47.20	49.70	52.50	47.20	45.85
3	45.85	51.65	58.10	50.15	53.65	58.00	51.65	50.20
4	49.40	56.60	63.15	53.10	57.60	63.50	56.10	54.55
5	52.95	61.55	68.20	56.05	61.55	69.00	60.55	58.90
6	55.50	64.80	72.85	58.90	65.40	74.50	64.30	62.15
7	58.05	68.05	77.50	61.75	69.25	80.00	68.05	65.40
8	60.60	71.30	82.15	64.60	73.10	85.50	71.80	68.65
9	63.15	74.55	86.80	67.45	76.95	91.00	75.55	71.90
10	65.70	77.80	91.45	70.30	80.80	96.50	79.30	75.15
11	67.95	81.05	96.10	72.95	84.65	102.40	83.05	78.40
12	70.20	84.30	100.75	75.60	88.50	108.30	86.80	81.65
13	72.45	87.55	105.40	78.25	92.35	114.20	90.55	84.90
14	74.70	90.80	110.05	80.90	96.20	120.10	94.30	88.15
15	76.95	94.05	114.70	83.55	100.05	126.00	98.05	91.40
16	79.20	97.30	119.35	86.20	103.90	131.90	101.80	94.55
17	81.45	100.55	124.00	88.85	107.75	137.80	105.55	97.70
18	83.70	103.80	128.65	91.50	111.60	143.70	109.30	100.85
19	85.95	107.05	133.30	94.15	115.45	149.60	113.05	104.00
20	88.20	110.30	137.95	96.80	119.30	155.50	116.80	107.15
21	90.45	113.55	142.60	99.45	123.15	161.40	120.55	110.30
22	92.70	116.80	147.25	102.10	127.00	167.30	124.30	113.45
23	94.95	120.05	151.90	104.75	130.85	173.20	128.05	116.60
24	97.20	123.30	156.55	107.40	134.70	179.10	131.80	119.75
25	99.45	126.55	161.20	110.05	138.55	185.00	135.55	122.90

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
1	46.50	48.50	48.25	40.95	47.50	43.50	40.95	40.95
2	51.05	52.75	51.50	44.40	51.95	47.05	44.30	44.40
3	55.60	57.00	54.75	47.85	56.40	50.60	47.65	47.85
4	60.15	61.25	58.00	51.30	60.85	54.15	51.00	51.30
5	64.70	65.50	61.25	54.75	65.30	57.70	54.35	54.75
6	69.65	68.85	64.20	57.70	68.65	61.25	57.50	57.40
7	74.60	72.20	67.15	60.65	72.00	64.80	60.65	60.05
8	79.55	75.55	70.10	63.60	75.35	68.35	63.80	62.70
9	84.50	78.90	73.05	66.55	78.70	71.90	66.95	65.35
10	89.45	82.25	76.00	69.50	82.05	75.45	70.10	68.00
11	94.30	85.30	78.95	72.15	85.40	79.30	72.15	70.45
12	99.15	88.35	81.90	74.80	88.75	83.15	74.20	72.90
13	104.00	91.40	84.85	77.45	92.10	87.00	76.25	75.35
14	108.85	94.45	87.80	80.10	95.45	90.85	78.30	77.80
15	113.70	97.50	90.75	82.75	98.80	94.70	80.35	80.25
16	118.55	100.55	93.70	85.40	102.05	98.55	82.40	82.70
17	123.40	103.60	96.65	88.05	105.30	102.40	84.45	85.15
18	128.25	106.65	99.60	90.70	108.55	106.25	86.50	87.60
19	133.10	109.70	102.55	93.35	111.80	110.10	88.55	90.05
20	137.95	112.75	105.50	96.00	115.05	113.95	90.60	92.50
21	142.80	115.80	108.45	98.65	118.30	117.80	92.65	94.95
22	147.65	118.85	111.40	101.30	121.55	121.65	94.70	97.40
23	152.50	121.90	114.35	103.95	124.80	125.50	96.75	99.85
24	157.35	124.95	117.30	106.60	128.05	129.35	98.80	102.30
25	162.20	128.00	120.25	109.25	131.30	133.20	100.85	104.75

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 ($)
26	93.00	99.00	102.65	109.65	111.25	114.05	119.25
27	95.15	101.65	105.30	112.50	114.20	117.30	122.60
28	97.30	104.30	107.95	115.35	117.15	120.55	125.95
29	99.45	106.95	110.60	118.20	120.10	123.80	129.30
30	101.60	109.60	113.25	121.05	123.05	127.05	132.65
31	103.75	112.25	115.90	123.90	126.00	130.30	136.00
32	105.90	114.90	118.55	126.75	128.95	133.55	139.35
33	108.05	117.55	121.20	129.60	131.90	136.80	142.70
34	110.20	120.20	123.85	132.45	134.85	140.05	146.05
35	112.35	122.85	126.50	135.30	137.80	143.30	149.40
36	114.50	125.50	129.15	138.15	140.75	146.55	152.75
37	116.65	128.15	131.80	141.00	143.70	149.80	156.10
38	118.80	130.80	134.45	143.85	146.65	153.05	159.45
39	120.95	133.45	137.10	146.70	149.60	156.30	162.80
40	123.10	136.10	139.75	149.55	152.55	159.55	166.15
41	125.25	138.75	142.40	152.40	155.50	162.80	169.50
42	127.40	141.40	145.05	155.25	158.45	166.05	172.85
43	129.55	144.05	147.70	158.10	161.40	169.30	176.20
44	131.70	146.70	150.35	160.95	164.35	172.55	179.55
45	133.85	149.35	153.00	163.80	167.30	175.80	182.90
46	136.00	152.00	155.65	166.65	170.25	179.05	186.25
47	138.15	154.65	158.30	169.50	173.20	182.30	189.60
48	140.30	157.30	160.95	172.35	176.15	185.55	192.95
49	142.45	159.95	163.60	175.20	179.10	188.80	196.30
50	144.60	162.60	166.25	178.05	182.05	192.05	199.65

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	101.70	129.80	165.85	112.70	142.40	190.90	139.30	126.05
27	103.95	133.05	170.50	115.35	146.25	196.80	143.05	129.20
28	106.20	136.30	175.15	118.00	150.10	202.70	146.80	132.35
29	108.45	139.55	179.80	120.65	153.95	208.60	150.55	135.50
30	110.70	142.80	184.45	123.30	157.80	214.50	154.30	138.65
31	112.95	146.05	189.10	125.95	161.65	220.40	158.05	141.80
32	115.20	149.30	193.75	128.60	165.50	226.30	161.80	144.95
33	117.45	152.55	198.40	131.25	169.35	232.20	165.55	148.10
34	119.70	155.80	203.05	133.90	173.20	238.10	169.30	151.25
35	121.95	159.05	207.70	136.55	177.05	244.00	173.05	154.40
36	124.20	162.30	212.35	139.20	180.90	249.90	176.80	157.55
37	126.45	165.55	217.00	141.85	184.75	255.80	180.55	160.70
38	128.70	168.80	221.65	144.50	188.60	261.70	184.30	163.85
39	130.95	172.05	226.30	147.15	192.45	267.60	188.05	167.00
40	133.20	175.30	230.95	149.80	196.30	273.50	191.80	170.15
41	135.45	178.55	235.60	152.45	200.15	279.40	195.55	173.30
42	137.70	181.80	240.25	155.10	204.00	285.30	199.30	176.45
43	139.95	185.05	244.90	157.75	207.85	291.20	203.05	179.60
44	142.20	188.30	249.55	160.40	211.70	297.10	206.80	182.75
45	144.45	191.55	254.20	163.05	215.55	303.00	210.55	185.90
46	146.70	194.80	258.85	165.70	219.40	308.90	214.30	189.05
47	148.95	198.05	263.50	168.35	223.25	314.80	218.05	192.20
48	151.20	201.30	268.15	171.00	227.10	320.70	221.80	195.35
49	153.45	204.55	272.80	173.65	230.95	326.60	225.55	198.50
50	155.70	207.80	277.45	176.30	234.80	332.50	229.30	201.65

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	167.05	131.05	123.20	111.90	134.55	137.05	102.90	107.20
27	171.90	134.10	126.15	114.55	137.80	140.90	104.95	109.65
28	176.75	137.15	129.10	117.20	141.05	144.75	107.00	112.10
29	181.60	140.20	132.05	119.85	144.30	148.60	109.05	114.55
30	186.45	143.25	135.00	122.50	147.55	152.45	111.10	117.00
31	191.30	146.30	137.95	125.15	150.80	156.30	113.15	119.45
32	196.15	149.35	140.90	127.80	154.05	160.15	115.20	121.90
33	201.00	152.40	143.85	130.45	157.30	164.00	117.25	124.35
34	205.85	155.45	146.80	133.10	160.55	167.85	119.30	126.80
35	210.70	158.50	149.75	135.75	163.80	171.70	121.35	129.25
36	215.55	161.55	152.70	138.40	167.05	175.55	123.40	131.70
37	220.40	164.60	155.65	141.05	170.30	179.40	125.45	134.15
38	225.25	167.65	158.60	143.70	173.55	183.25	127.50	136.60
39	230.10	170.70	161.55	146.35	176.80	187.10	129.55	139.05
40	234.95	173.75	164.50	149.00	180.05	190.95	131.60	141.50
41	239.80	176.70	167.45	151.65	183.30	194.80	133.65	143.95
42	244.65	179.65	170.40	154.30	186.55	198.65	135.70	146.40
43	249.50	182.60	173.35	156.95	189.80	202.50	137.75	148.85
44	254.35	185.55	176.30	159.60	193.05	206.35	139.80	151.30
45	259.20	188.50	179.25	162.25	196.30	210.20	141.85	153.75
46	264.05	191.45	182.20	164.90	199.55	214.05	143.90	156.20
47	268.90	194.40	185.15	167.55	202.80	217.90	145.95	158.65
48	273.75	197.35	188.10	170.20	206.05	221.75	148.00	161.10
49	278.60	200.30	191.05	172.85	209.30	225.60	150.05	163.55
50	283.45	203.25	194.00	175.50	212.55	229.45	152.10	166.00

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 ($)
51	146.75	165.25	168.90	180.70	185.00	195.30	203.00
52	148.90	167.90	171.55	183.35	187.95	198.55	206.35
53	151.05	170.55	174.20	186.00	190.90	201.80	209.70
54	153.20	173.20	176.85	188.65	193.85	205.05	213.05
55	155.35	175.85	179.50	191.30	196.80	208.30	216.40
56	157.50	178.50	182.15	193.95	199.75	211.55	219.75
57	159.65	181.15	184.80	196.60	202.70	214.80	223.10
58	161.80	183.80	187.45	199.25	205.65	218.05	226.45
59	163.95	186.45	190.10	201.90	208.60	221.30	229.80
60	166.10	189.10	192.75	204.55	211.55	224.55	233.15
61	168.25	191.75	195.40	207.20	214.50	227.80	236.50
62	170.40	194.40	198.05	209.85	217.45	231.05	239.85
63	172.55	197.05	200.70	212.50	220.40	234.30	243.20
64	174.70	199.70	203.35	215.15	223.35	237.55	246.55
65	176.85	202.35	206.00	217.80	226.30	240.80	249.90
66	179.00	205.00	208.65	220.45	229.25	244.05	253.25
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	157.95	211.05	282.10	178.95	238.65	338.40	233.05	204.80
52	160.20	214.30	286.75	181.60	242.50	344.30	236.80	207.95
53	162.45	217.55	291.40	184.25	246.35	350.20	240.55	211.10
54	164.70	220.80	296.05	186.90	250.20	356.10	244.30	214.25
55	166.95	224.05	300.70	189.55	254.05	362.00	248.05	217.40
56	169.20	227.30	305.35	192.20	257.90	367.90	251.80	220.55
57	171.45	230.55	310.00	194.85	261.75	373.80	255.55	223.70
58	173.70	233.80	314.65	197.50	265.60	379.70	259.30	226.85
59	175.95	237.05	319.30	200.15	269.45	385.60	263.05	230.00
60	178.20	240.30	323.95	202.80	273.30	391.50	266.80	233.15
61	180.45	243.55	328.60	205.45	277.15	397.40	270.55	236.30
62	182.70	246.80	333.25	208.10	281.00	403.30	274.30	239.45
63	184.95	250.05	337.90	210.75	284.85	409.20	278.05	242.60
64	187.20	253.30	342.55	213.40	288.70	415.10	281.80	245.75
65	189.45	256.55	347.20	216.05	292.55	421.00	285.55	248.90
66	191.70	259.80	351.85	218.70	296.40	426.90	289.30	252.05
67	193.95	263.05	356.50	221.35	300.25	432.80	293.05	255.20
68	196.20	266.30	361.15	224.00	304.10	438.70	296.80	258.35
69	198.45	269.55	365.80	226.65	307.95	444.60	300.55	261.50
70	200.70	272.80	370.45	229.30	311.80	450.50	304.30	264.65

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	288.30	206.20	196.95	178.15	215.80	233.30	154.15	168.45
52	293.15	209.15	199.90	180.80	219.05	237.15	156.20	170.90
53	298.00	212.10	202.85	183.45	222.30	241.00	158.25	173.35
54	302.85	215.05	205.80	186.10	225.55	244.85	160.30	175.80
55	307.70	218.00	208.75	188.75	228.80	248.70	162.35	178.25
56	312.55	220.95	211.70	191.40	232.05	252.55	164.40	180.70
57	317.40	223.90	214.65	194.05	235.30	256.40	166.45	183.15
58	322.25	226.85	217.60	196.70	238.55	260.25	168.50	185.60
59	327.10	229.80	220.55	199.35	241.80	264.10	170.55	188.05
60	331.95	232.75	223.50	202.00	245.05	267.95	172.60	190.50
61	336.80	235.70	226.45	204.65	248.30	271.80	174.65	192.95
62	341.65	238.65	229.40	207.30	251.55	275.65	176.70	195.40
63	346.50	241.60	232.35	209.95	254.80	279.50	178.75	197.85
64	351.35	244.55	235.30	212.60	258.05	283.35	180.80	200.30
65	356.20	247.50	238.25	215.25	261.30	287.20	182.85	202.75
66	361.05	250.45	241.20	217.90	264.55	291.05	184.90	205.20
67	-	-	-	-	-	-	186.95	-
68	-	-	-	-	-	-	189.00	-
69	-	-	-	-	-	-	191.05	-
70	-	-	-	-	-	-	193.10	-

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	30.16	31.11	33.25	34.20	35.63	36.10	36.58
2	32.59	33.63	35.86	37.00	38.43	38.90	39.47
3	35.01	36.15	38.48	39.81	41.23	41.71	42.37
4	37.43	38.67	41.09	42.61	44.03	44.51	45.27
5	39.85	41.18	43.70	45.41	46.84	47.31	48.17
6	42.28	43.70	46.41	48.21	49.64	50.21	51.06
7	44.70	46.22	49.12	51.02	52.44	53.11	53.96
8	47.12	48.74	51.82	53.82	55.24	56.00	56.86
9	49.54	51.25	54.53	56.62	58.05	58.90	59.76
10	51.97	53.77	57.24	59.42	60.85	61.80	62.65
11	54.29	56.29	59.76	62.23	63.65	64.70	65.55
12	56.62	58.81	62.27	65.03	66.45	67.59	68.73
13	58.95	61.32	64.79	67.83	69.26	70.49	71.92
14	61.28	63.84	67.31	70.63	72.06	73.39	75.10
15	63.60	66.36	69.83	73.44	74.86	76.29	78.28
16	65.93	68.88	72.34	76.24	77.66	79.18	81.46
17	68.26	71.39	74.86	79.04	80.47	82.08	84.64
18	70.59	73.91	77.38	81.84	83.27	84.98	87.83
19	72.91	76.43	79.90	84.65	86.07	87.88	91.01
20	75.24	78.95	82.41	87.45	88.87	90.77	94.19
21	77.57	81.46	84.93	90.25	91.68	93.67	97.37
22	79.90	83.98	87.45	93.05	94.48	96.57	100.56
23	82.22	86.50	89.97	95.86	97.28	99.47	103.74
24	84.27	89.02	92.48	98.66	100.08	102.36	106.92
25	86.31	91.53	95.00	101.46	102.89	105.26	110.11

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	36.81	39.66	45.60	42.04	43.46	44.65	40.61	39.43
2	40.19	44.37	50.40	44.84	47.22	49.88	44.84	43.56
3	43.56	49.07	55.20	47.64	50.97	55.10	49.07	47.69
4	46.93	53.77	59.99	50.45	54.72	60.33	53.30	51.82
5	50.30	58.47	64.79	53.25	58.47	65.55	57.52	55.96
6	52.73	61.56	69.21	55.96	62.13	70.78	61.09	59.04
7	55.15	64.65	73.63	58.66	65.79	76.00	64.65	62.13
8	57.57	67.74	78.04	61.37	69.45	81.23	68.21	65.22
9	59.99	70.82	82.46	64.08	73.10	86.45	71.77	68.31
10	62.42	73.91	86.88	66.79	76.76	91.68	75.34	71.39
11	64.55	77.00	91.30	69.30	80.42	97.28	78.90	74.48
12	66.69	80.09	95.71	71.82	84.08	102.89	82.46	77.57
13	68.83	83.17	100.13	74.34	87.73	108.49	86.02	80.66
14	70.97	86.26	104.55	76.86	91.39	114.10	89.59	83.74
15	73.10	89.35	108.97	79.37	95.05	119.70	93.15	86.83
16	75.24	92.44	113.38	81.89	98.71	125.31	96.71	89.82
17	77.38	95.52	117.80	84.41	102.36	130.91	100.27	92.82
18	79.52	98.61	122.22	86.93	106.02	136.52	103.84	95.81
19	81.65	101.70	126.64	89.44	109.68	142.12	107.40	98.80
20	83.79	104.79	131.05	91.96	113.34	147.73	110.96	101.79
21	85.93	107.87	135.47	94.48	116.99	153.33	114.52	104.79
22	88.07	110.96	139.89	97.00	120.65	158.94	118.09	107.78
23	90.20	114.05	144.31	99.51	124.31	164.54	121.65	110.77
24	92.34	117.14	148.72	102.03	127.97	170.15	125.21	113.76
25	94.48	120.22	153.14	104.55	131.62	175.75	128.77	116.76

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
1	44.18	46.08	45.84	38.90	45.13	41.33	38.90	38.90
2	48.50	50.11	48.93	42.18	49.35	44.70	42.09	42.18
3	52.82	54.15	52.01	45.46	53.58	48.07	45.27	45.46
4	57.14	58.19	55.10	48.74	57.81	51.44	48.45	48.74
5	61.47	62.23	58.19	52.01	62.04	54.82	51.63	52.01
6	66.17	65.41	60.99	54.82	65.22	58.19	54.63	54.53
7	70.87	68.59	63.79	57.62	68.40	61.56	57.62	57.05
8	75.57	71.77	66.60	60.42	71.58	64.93	60.61	59.57
9	80.28	74.96	69.40	63.22	74.77	68.31	63.60	62.08
10	84.98	78.14	72.20	66.03	77.95	71.68	66.60	64.60
11	89.59	81.04	75.00	68.54	81.13	75.34	68.54	66.93
12	94.19	83.93	77.81	71.06	84.31	78.99	70.49	69.26
13	98.80	86.83	80.61	73.58	87.50	82.65	72.44	71.58
14	103.41	89.73	83.41	76.10	90.68	86.31	74.39	73.91
15	108.02	92.63	86.21	78.61	93.86	89.97	76.33	76.24
16	112.62	95.52	89.02	81.13	96.95	93.62	78.28	78.57
17	117.23	98.42	91.82	83.65	100.04	97.28	80.23	80.89
18	121.84	101.32	94.62	86.17	103.12	100.94	82.18	83.22
19	126.45	104.22	97.42	88.68	106.21	104.60	84.12	85.55
20	131.05	107.11	100.23	91.20	109.30	108.25	86.07	87.88
21	135.66	110.01	103.03	93.72	112.39	111.91	88.02	90.20
22	140.27	112.91	105.83	96.24	115.47	115.57	89.97	92.53
23	144.88	115.81	108.63	98.75	118.56	119.23	91.91	94.86
24	149.48	118.70	111.44	101.27	121.65	122.88	93.86	97.19
25	154.09	121.60	114.24	103.79	124.74	126.54	95.81	99.51

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	88.35	94.05	97.52	104.17	105.69	108.35	113.29
27	90.39	96.57	100.04	106.88	108.49	111.44	116.47
28	92.44	99.09	102.55	109.58	111.29	114.52	119.65
29	94.48	101.60	105.07	112.29	114.10	117.61	122.84
30	96.52	104.12	107.59	115.00	116.90	120.70	126.02
31	98.56	106.64	110.11	117.71	119.70	123.79	129.20
32	100.61	109.16	112.62	120.41	122.50	126.87	132.38
33	102.65	111.67	115.14	123.12	125.31	129.96	135.57
34	104.69	114.19	117.66	125.83	128.11	133.05	138.75
35	106.73	116.71	120.18	128.54	130.91	136.14	141.93
36	108.78	119.23	122.69	131.24	133.71	139.22	145.11
37	110.82	121.74	125.21	133.95	136.52	142.31	148.30
38	112.86	124.26	127.73	136.66	139.32	145.40	151.48
39	114.90	126.78	130.25	139.37	142.12	148.49	154.66
40	116.95	129.30	132.76	142.07	144.92	151.57	157.84
41	118.99	131.81	135.28	144.78	147.73	154.66	161.03
42	121.03	134.33	137.80	147.49	150.53	157.75	164.21
43	123.07	136.85	140.32	150.20	153.33	160.84	167.39
44	125.12	139.37	142.83	152.90	156.13	163.92	170.57
45	127.16	141.88	145.35	155.61	158.94	167.01	173.76
46	129.20	144.40	147.87	158.32	161.74	170.10	176.94
47	131.24	146.92	150.39	161.03	164.54	173.19	180.12
48	133.29	149.44	152.90	163.73	167.34	176.27	183.30
49	135.33	151.95	155.42	166.44	170.15	179.36	186.49
50	137.37	154.47	157.94	169.15	172.95	182.45	189.67

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	96.62	123.31	157.56	107.07	135.28	181.36	132.34	119.75
27	98.75	126.40	161.98	109.58	138.94	186.96	135.90	122.74
28	100.89	129.49	166.39	112.10	142.60	192.57	139.46	125.73
29	103.03	132.57	170.81	114.62	146.25	198.17	143.02	128.73
30	105.17	135.66	175.23	117.14	149.91	203.78	146.59	131.72
31	107.30	138.75	179.65	119.65	153.57	209.38	150.15	134.71
32	109.44	141.84	184.06	122.17	157.23	214.99	153.71	137.70
33	111.58	144.92	188.48	124.69	160.88	220.59	157.27	140.70
34	113.72	148.01	192.90	127.21	164.54	226.20	160.84	143.69
35	115.85	151.10	197.32	129.72	168.20	231.80	164.40	146.68
36	117.99	154.19	201.73	132.24	171.86	237.41	167.96	149.67
37	120.13	157.27	206.15	134.76	175.51	243.01	171.52	152.67
38	122.27	160.36	210.57	137.28	179.17	248.62	175.09	155.66
39	124.40	163.45	214.99	139.79	182.83	254.22	178.65	158.65
40	126.54	166.54	219.40	142.31	186.49	259.83	182.21	161.64
41	128.68	169.62	223.82	144.83	190.14	265.43	185.77	164.64
42	130.82	172.71	228.24	147.35	193.80	271.04	189.34	167.63
43	132.95	175.80	232.66	149.86	197.46	276.64	192.90	170.62
44	135.09	178.89	237.07	152.38	201.12	282.25	196.46	173.61
45	137.23	181.97	241.49	154.90	204.77	287.85	200.02	176.61
46	139.37	185.06	245.91	157.42	208.43	293.46	203.59	179.60
47	141.50	188.15	250.33	159.93	212.09	299.06	207.15	182.59
48	143.64	191.24	254.74	162.45	215.75	304.67	210.71	185.58
49	145.78	194.32	259.16	164.97	219.40	310.27	214.27	188.58
50	147.92	197.41	263.58	167.49	223.06	315.88	217.84	191.57

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	158.70	124.50	117.04	106.31	127.82	130.20	97.76	101.84
27	163.31	127.40	119.84	108.82	130.91	133.86	99.70	104.17
28	167.91	130.29	122.65	111.34	134.00	137.51	101.65	106.50
29	172.52	133.19	125.45	113.86	137.09	141.17	103.60	108.82
30	177.13	136.09	128.25	116.38	140.17	144.83	105.55	111.15
31	181.74	138.99	131.05	118.89	143.26	148.49	107.49	113.48
32	186.34	141.88	133.86	121.41	146.35	152.14	109.44	115.81
33	190.95	144.78	136.66	123.93	149.44	155.80	111.39	118.13
34	195.56	147.68	139.46	126.45	152.52	159.46	113.34	120.46
35	200.17	150.58	142.26	128.96	155.61	163.12	115.28	122.79
36	204.77	153.47	145.07	131.48	158.70	166.77	117.23	125.12
37	209.38	156.37	147.87	134.00	161.79	170.43	119.18	127.44
38	213.99	159.27	150.67	136.52	164.87	174.09	121.13	129.77
39	218.60	162.17	153.47	139.03	167.96	177.75	123.07	132.10
40	223.20	165.06	156.28	141.55	171.05	181.40	125.02	134.43
41	227.81	167.87	159.08	144.07	174.14	185.06	126.97	136.75
42	232.42	170.67	161.88	146.59	177.22	188.72	128.92	139.08
43	237.03	173.47	164.68	149.10	180.31	192.38	130.86	141.41
44	241.63	176.27	167.49	151.62	183.40	196.03	132.81	143.74
45	246.24	179.08	170.29	154.14	186.49	199.69	134.76	146.06
46	250.85	181.88	173.09	156.66	189.57	203.35	136.71	148.39
47	255.46	184.68	175.89	159.17	192.66	207.01	138.65	150.72
48	260.06	187.48	178.70	161.69	195.75	210.66	140.60	153.05
49	264.67	190.29	181.50	164.21	198.84	214.32	142.55	155.37
50	269.28	193.09	184.30	166.73	201.92	217.98	144.50	157.70

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	139.41	156.99	160.46	171.67	175.75	185.54	192.85
52	141.46	159.51	162.97	174.18	178.55	188.62	196.03
53	143.50	162.02	165.49	176.70	181.36	191.71	199.22
54	145.54	164.54	168.01	179.22	184.16	194.80	202.40
55	147.58	167.06	170.53	181.74	186.96	197.89	205.58
56	149.63	169.58	173.04	184.25	189.76	200.97	208.76
57	151.67	172.09	175.56	186.77	192.57	204.06	211.95
58	153.71	174.61	178.08	189.29	195.37	207.15	215.13
59	155.75	177.13	180.60	191.81	198.17	210.24	218.31
60	157.80	179.65	183.11	194.32	200.97	213.32	221.49
61	159.84	182.16	185.63	196.84	203.78	216.41	224.68
62	161.88	184.68	188.15	199.36	206.58	219.50	227.86
63	163.92	187.20	190.67	201.88	209.38	222.59	231.04
64	165.97	189.72	193.18	204.39	212.18	225.67	234.22
65	168.01	192.23	195.70	206.91	214.99	228.76	237.41
66	170.05	194.75	198.22	209.43	217.79	231.85	240.59
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	150.05	200.50	268.00	170.00	226.72	321.48	221.40	194.56
52	152.19	203.59	272.41	172.52	230.38	327.09	224.96	197.55
53	154.33	206.67	276.83	175.04	234.03	332.69	228.52	200.55
54	156.47	209.76	281.25	177.56	237.69	338.30	232.09	203.54
55	158.60	212.85	285.67	180.07	241.35	343.90	235.65	206.53
56	160.74	215.94	290.08	182.59	245.01	349.51	239.21	209.52
57	162.88	219.02	294.50	185.11	248.66	355.11	242.77	212.52
58	165.02	222.11	298.92	187.63	252.32	360.72	246.34	215.51
59	167.15	225.20	303.34	190.14	255.98	366.32	249.90	218.50
60	169.29	228.29	307.75	192.66	259.64	371.93	253.46	221.49
61	171.43	231.37	312.17	195.18	263.29	377.53	257.02	224.49
62	173.57	234.46	316.59	197.70	266.95	383.14	260.59	227.48
63	175.70	237.55	321.01	200.21	270.61	388.74	264.15	230.47
64	177.84	240.64	325.42	202.73	274.27	394.35	267.71	233.46
65	179.98	243.72	329.84	205.25	277.92	399.95	271.27	236.46
66	182.12	246.81	334.26	207.77	281.58	405.56	274.84	239.45
67	184.25	249.90	338.68	210.28	285.24	411.16	278.40	242.44
68	186.39	252.99	343.09	212.80	288.90	416.77	281.96	245.43
69	188.53	256.07	347.51	215.32	292.55	422.37	285.52	248.43
70	190.67	259.16	351.93	217.84	296.21	427.98	289.09	251.42

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	273.89	195.89	187.10	169.24	205.01	221.64	146.44	160.03
52	278.49	198.69	189.91	171.76	208.10	225.29	148.39	162.36
53	283.10	201.50	192.71	174.28	211.19	228.95	150.34	164.68
54	287.71	204.30	195.51	176.80	214.27	232.61	152.29	167.01
55	292.32	207.10	198.31	179.31	217.36	236.27	154.23	169.34
56	296.92	209.90	201.12	181.83	220.45	239.92	156.18	171.67
57	301.53	212.71	203.92	184.35	223.54	243.58	158.13	173.99
58	306.14	215.51	206.72	186.87	226.62	247.24	160.08	176.32
59	310.75	218.31	209.52	189.38	229.71	250.90	162.02	178.65
60	315.35	221.11	212.33	191.90	232.80	254.55	163.97	180.98
61	319.96	223.92	215.13	194.42	235.89	258.21	165.92	183.30
62	324.57	226.72	217.93	196.94	238.97	261.87	167.87	185.63
63	329.18	229.52	220.73	199.45	242.06	265.53	169.81	187.96
64	333.78	232.32	223.54	201.97	245.15	269.18	171.76	190.29
65	338.39	235.13	226.34	204.49	248.24	272.84	173.71	192.61
66	343.00	237.93	229.14	207.01	251.32	276.50	175.66	194.94
67	-	-	-	-	-	-	177.60	-
68	-	-	-	-	-	-	179.55	-
69	-	-	-	-	-	-	181.50	-
70	-	-	-	-	-	-	183.45	-

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 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	30.16	31.11	33.25	34.20	35.63	36.10	36.58
2	32.59	33.63	35.86	37.00	38.43	38.90	39.47
3	35.01	36.15	38.48	39.81	41.23	41.71	42.37
4	37.43	38.67	41.09	42.61	44.03	44.51	45.27
5	39.85	41.18	43.70	45.41	46.84	47.31	48.17
6	42.28	43.70	46.41	48.21	49.64	50.21	51.06
7	44.70	46.22	49.12	51.02	52.44	53.11	53.96
8	47.12	48.74	51.82	53.82	55.24	56.00	56.86
9	49.54	51.25	54.53	56.62	58.05	58.90	59.76
10	51.97	53.77	57.24	59.42	60.85	61.80	62.65
11	54.29	56.29	59.76	62.23	63.65	64.70	65.55
12	56.62	58.81	62.27	65.03	66.45	67.59	68.73
13	58.95	61.32	64.79	67.83	69.26	70.49	71.92
14	61.28	63.84	67.31	70.63	72.06	73.39	75.10
15	63.60	66.36	69.83	73.44	74.86	76.29	78.28
16	65.93	68.88	72.34	76.24	77.66	79.18	81.46
17	68.26	71.39	74.86	79.04	80.47	82.08	84.64
18	70.59	73.91	77.38	81.84	83.27	84.98	87.83
19	72.91	76.43	79.90	84.65	86.07	87.88	91.01
20	75.24	78.95	82.41	87.45	88.87	90.77	94.19
21	77.57	81.46	84.93	90.25	91.68	93.67	97.37
22	79.90	83.98	87.45	93.05	94.48	96.57	100.56
23	82.22	86.50	89.97	95.86	97.28	99.47	103.74
24	84.27	89.02	92.48	98.66	100.08	102.36	106.92
25	86.31	91.53	95.00	101.46	102.89	105.26	110.11

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	36.81	39.66	45.60	42.04	43.46	44.65	40.61	39.43
2	40.19	44.37	50.40	44.84	47.22	49.88	44.84	43.56
3	43.56	49.07	55.20	47.64	50.97	55.10	49.07	47.69
4	46.93	53.77	59.99	50.45	54.72	60.33	53.30	51.82
5	50.30	58.47	64.79	53.25	58.47	65.55	57.52	55.96
6	52.73	61.56	69.21	55.96	62.13	70.78	61.09	59.04
7	55.15	64.65	73.63	58.66	65.79	76.00	64.65	62.13
8	57.57	67.74	78.04	61.37	69.45	81.23	68.21	65.22
9	59.99	70.82	82.46	64.08	73.10	86.45	71.77	68.31
10	62.42	73.91	86.88	66.79	76.76	91.68	75.34	71.39
11	64.55	77.00	91.30	69.30	80.42	97.28	78.90	74.48
12	66.69	80.09	95.71	71.82	84.08	102.89	82.46	77.57
13	68.83	83.17	100.13	74.34	87.73	108.49	86.02	80.66
14	70.97	86.26	104.55	76.86	91.39	114.10	89.59	83.74
15	73.10	89.35	108.97	79.37	95.05	119.70	93.15	86.83
16	75.24	92.44	113.38	81.89	98.71	125.31	96.71	89.82
17	77.38	95.52	117.80	84.41	102.36	130.91	100.27	92.82
18	79.52	98.61	122.22	86.93	106.02	136.52	103.84	95.81
19	81.65	101.70	126.64	89.44	109.68	142.12	107.40	98.80
20	83.79	104.79	131.05	91.96	113.34	147.73	110.96	101.79
21	85.93	107.87	135.47	94.48	116.99	153.33	114.52	104.79
22	88.07	110.96	139.89	97.00	120.65	158.94	118.09	107.78
23	90.20	114.05	144.31	99.51	124.31	164.54	121.65	110.77
24	92.34	117.14	148.72	102.03	127.97	170.15	125.21	113.76
25	94.48	120.22	153.14	104.55	131.62	175.75	128.77	116.76

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
1	44.18	46.08	45.84	38.90	45.13	41.33	38.90	38.90
2	48.50	50.11	48.93	42.18	49.35	44.70	42.09	42.18
3	52.82	54.15	52.01	45.46	53.58	48.07	45.27	45.46
4	57.14	58.19	55.10	48.74	57.81	51.44	48.45	48.74
5	61.47	62.23	58.19	52.01	62.04	54.82	51.63	52.01
6	66.17	65.41	60.99	54.82	65.22	58.19	54.63	54.53
7	70.87	68.59	63.79	57.62	68.40	61.56	57.62	57.05
8	75.57	71.77	66.60	60.42	71.58	64.93	60.61	59.57
9	80.28	74.96	69.40	63.22	74.77	68.31	63.60	62.08
10	84.98	78.14	72.20	66.03	77.95	71.68	66.60	64.60
11	89.59	81.04	75.00	68.54	81.13	75.34	68.54	66.93
12	94.19	83.93	77.81	71.06	84.31	78.99	70.49	69.26
13	98.80	86.83	80.61	73.58	87.50	82.65	72.44	71.58
14	103.41	89.73	83.41	76.10	90.68	86.31	74.39	73.91
15	108.02	92.63	86.21	78.61	93.86	89.97	76.33	76.24
16	112.62	95.52	89.02	81.13	96.95	93.62	78.28	78.57
17	117.23	98.42	91.82	83.65	100.04	97.28	80.23	80.89
18	121.84	101.32	94.62	86.17	103.12	100.94	82.18	83.22
19	126.45	104.22	97.42	88.68	106.21	104.60	84.12	85.55
20	131.05	107.11	100.23	91.20	109.30	108.25	86.07	87.88
21	135.66	110.01	103.03	93.72	112.39	111.91	88.02	90.20
22	140.27	112.91	105.83	96.24	115.47	115.57	89.97	92.53
23	144.88	115.81	108.63	98.75	118.56	119.23	91.91	94.86
24	149.48	118.70	111.44	101.27	121.65	122.88	93.86	97.19
25	154.09	121.60	114.24	103.79	124.74	126.54	95.81	99.51

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	88.35	94.05	97.52	104.17	105.69	108.35	113.29
27	90.39	96.57	100.04	106.88	108.49	111.44	116.47
28	92.44	99.09	102.55	109.58	111.29	114.52	119.65
29	94.48	101.60	105.07	112.29	114.10	117.61	122.84
30	96.52	104.12	107.59	115.00	116.90	120.70	126.02
31	98.56	106.64	110.11	117.71	119.70	123.79	129.20
32	100.61	109.16	112.62	120.41	122.50	126.87	132.38
33	102.65	111.67	115.14	123.12	125.31	129.96	135.57
34	104.69	114.19	117.66	125.83	128.11	133.05	138.75
35	106.73	116.71	120.18	128.54	130.91	136.14	141.93
36	108.78	119.23	122.69	131.24	133.71	139.22	145.11
37	110.82	121.74	125.21	133.95	136.52	142.31	148.30
38	112.86	124.26	127.73	136.66	139.32	145.40	151.48
39	114.90	126.78	130.25	139.37	142.12	148.49	154.66
40	116.95	129.30	132.76	142.07	144.92	151.57	157.84
41	118.99	131.81	135.28	144.78	147.73	154.66	161.03
42	121.03	134.33	137.80	147.49	150.53	157.75	164.21
43	123.07	136.85	140.32	150.20	153.33	160.84	167.39
44	125.12	139.37	142.83	152.90	156.13	163.92	170.57
45	127.16	141.88	145.35	155.61	158.94	167.01	173.76
46	129.20	144.40	147.87	158.32	161.74	170.10	176.94
47	131.24	146.92	150.39	161.03	164.54	173.19	180.12
48	133.29	149.44	152.90	163.73	167.34	176.27	183.30
49	135.33	151.95	155.42	166.44	170.15	179.36	186.49
50	137.37	154.47	157.94	169.15	172.95	182.45	189.67

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	96.62	123.31	157.56	107.07	135.28	181.36	132.34	119.75
27	98.75	126.40	161.98	109.58	138.94	186.96	135.90	122.74
28	100.89	129.49	166.39	112.10	142.60	192.57	139.46	125.73
29	103.03	132.57	170.81	114.62	146.25	198.17	143.02	128.73
30	105.17	135.66	175.23	117.14	149.91	203.78	146.59	131.72
31	107.30	138.75	179.65	119.65	153.57	209.38	150.15	134.71
32	109.44	141.84	184.06	122.17	157.23	214.99	153.71	137.70
33	111.58	144.92	188.48	124.69	160.88	220.59	157.27	140.70
34	113.72	148.01	192.90	127.21	164.54	226.20	160.84	143.69
35	115.85	151.10	197.32	129.72	168.20	231.80	164.40	146.68
36	117.99	154.19	201.73	132.24	171.86	237.41	167.96	149.67
37	120.13	157.27	206.15	134.76	175.51	243.01	171.52	152.67
38	122.27	160.36	210.57	137.28	179.17	248.62	175.09	155.66
39	124.40	163.45	214.99	139.79	182.83	254.22	178.65	158.65
40	126.54	166.54	219.40	142.31	186.49	259.83	182.21	161.64
41	128.68	169.62	223.82	144.83	190.14	265.43	185.77	164.64
42	130.82	172.71	228.24	147.35	193.80	271.04	189.34	167.63
43	132.95	175.80	232.66	149.86	197.46	276.64	192.90	170.62
44	135.09	178.89	237.07	152.38	201.12	282.25	196.46	173.61
45	137.23	181.97	241.49	154.90	204.77	287.85	200.02	176.61
46	139.37	185.06	245.91	157.42	208.43	293.46	203.59	179.60
47	141.50	188.15	250.33	159.93	212.09	299.06	207.15	182.59
48	143.64	191.24	254.74	162.45	215.75	304.67	210.71	185.58
49	145.78	194.32	259.16	164.97	219.40	310.27	214.27	188.58
50	147.92	197.41	263.58	167.49	223.06	315.88	217.84	191.57

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	158.70	124.50	117.04	106.31	127.82	130.20	97.76	101.84
27	163.31	127.40	119.84	108.82	130.91	133.86	99.70	104.17
28	167.91	130.29	122.65	111.34	134.00	137.51	101.65	106.50
29	172.52	133.19	125.45	113.86	137.09	141.17	103.60	108.82
30	177.13	136.09	128.25	116.38	140.17	144.83	105.55	111.15
31	181.74	138.99	131.05	118.89	143.26	148.49	107.49	113.48
32	186.34	141.88	133.86	121.41	146.35	152.14	109.44	115.81
33	190.95	144.78	136.66	123.93	149.44	155.80	111.39	118.13
34	195.56	147.68	139.46	126.45	152.52	159.46	113.34	120.46
35	200.17	150.58	142.26	128.96	155.61	163.12	115.28	122.79
36	204.77	153.47	145.07	131.48	158.70	166.77	117.23	125.12
37	209.38	156.37	147.87	134.00	161.79	170.43	119.18	127.44
38	213.99	159.27	150.67	136.52	164.87	174.09	121.13	129.77
39	218.60	162.17	153.47	139.03	167.96	177.75	123.07	132.10
40	223.20	165.06	156.28	141.55	171.05	181.40	125.02	134.43
41	227.81	167.87	159.08	144.07	174.14	185.06	126.97	136.75
42	232.42	170.67	161.88	146.59	177.22	188.72	128.92	139.08
43	237.03	173.47	164.68	149.10	180.31	192.38	130.86	141.41
44	241.63	176.27	167.49	151.62	183.40	196.03	132.81	143.74
45	246.24	179.08	170.29	154.14	186.49	199.69	134.76	146.06
46	250.85	181.88	173.09	156.66	189.57	203.35	136.71	148.39
47	255.46	184.68	175.89	159.17	192.66	207.01	138.65	150.72
48	260.06	187.48	178.70	161.69	195.75	210.66	140.60	153.05
49	264.67	190.29	181.50	164.21	198.84	214.32	142.55	155.37
50	269.28	193.09	184.30	166.73	201.92	217.98	144.50	157.70

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	139.41	156.99	160.46	171.67	175.75	185.54	192.85
52	141.46	159.51	162.97	174.18	178.55	188.62	196.03
53	143.50	162.02	165.49	176.70	181.36	191.71	199.22
54	145.54	164.54	168.01	179.22	184.16	194.80	202.40
55	147.58	167.06	170.53	181.74	186.96	197.89	205.58
56	149.63	169.58	173.04	184.25	189.76	200.97	208.76
57	151.67	172.09	175.56	186.77	192.57	204.06	211.95
58	153.71	174.61	178.08	189.29	195.37	207.15	215.13
59	155.75	177.13	180.60	191.81	198.17	210.24	218.31
60	157.80	179.65	183.11	194.32	200.97	213.32	221.49
61	159.84	182.16	185.63	196.84	203.78	216.41	224.68
62	161.88	184.68	188.15	199.36	206.58	219.50	227.86
63	163.92	187.20	190.67	201.88	209.38	222.59	231.04
64	165.97	189.72	193.18	204.39	212.18	225.67	234.22
65	168.01	192.23	195.70	206.91	214.99	228.76	237.41
66	170.05	194.75	198.22	209.43	217.79	231.85	240.59
67	-	-	-	-	-	-	-
68	-	-	-	-	-	-	-
69	-	-	-	-	-	-	-
70	-	-	-	-	-	-	-

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	150.05	200.50	268.00	170.00	226.72	321.48	221.40	194.56
52	152.19	203.59	272.41	172.52	230.38	327.09	224.96	197.55
53	154.33	206.67	276.83	175.04	234.03	332.69	228.52	200.55
54	156.47	209.76	281.25	177.56	237.69	338.30	232.09	203.54
55	158.60	212.85	285.67	180.07	241.35	343.90	235.65	206.53
56	160.74	215.94	290.08	182.59	245.01	349.51	239.21	209.52
57	162.88	219.02	294.50	185.11	248.66	355.11	242.77	212.52
58	165.02	222.11	298.92	187.63	252.32	360.72	246.34	215.51
59	167.15	225.20	303.34	190.14	255.98	366.32	249.90	218.50
60	169.29	228.29	307.75	192.66	259.64	371.93	253.46	221.49
61	171.43	231.37	312.17	195.18	263.29	377.53	257.02	224.49
62	173.57	234.46	316.59	197.70	266.95	383.14	260.59	227.48
63	175.70	237.55	321.01	200.21	270.61	388.74	264.15	230.47
64	177.84	240.64	325.42	202.73	274.27	394.35	267.71	233.46
65	179.98	243.72	329.84	205.25	277.92	399.95	271.27	236.46
66	182.12	246.81	334.26	207.77	281.58	405.56	274.84	239.45
67	184.25	249.90	338.68	210.28	285.24	411.16	278.40	242.44
68	186.39	252.99	343.09	212.80	288.90	416.77	281.96	245.43
69	188.53	256.07	347.51	215.32	292.55	422.37	285.52	248.43
70	190.67	259.16	351.93	217.84	296.21	427.98	289.09	251.42

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	273.89	195.89	187.10	169.24	205.01	221.64	146.44	160.03
52	278.49	198.69	189.91	171.76	208.10	225.29	148.39	162.36
53	283.10	201.50	192.71	174.28	211.19	228.95	150.34	164.68
54	287.71	204.30	195.51	176.80	214.27	232.61	152.29	167.01
55	292.32	207.10	198.31	179.31	217.36	236.27	154.23	169.34
56	296.92	209.90	201.12	181.83	220.45	239.92	156.18	171.67
57	301.53	212.71	203.92	184.35	223.54	243.58	158.13	173.99
58	306.14	215.51	206.72	186.87	226.62	247.24	160.08	176.32
59	310.75	218.31	209.52	189.38	229.71	250.90	162.02	178.65
60	315.35	221.11	212.33	191.90	232.80	254.55	163.97	180.98
61	319.96	223.92	215.13	194.42	235.89	258.21	165.92	183.30
62	324.57	226.72	217.93	196.94	238.97	261.87	167.87	185.63
63	329.18	229.52	220.73	199.45	242.06	265.53	169.81	187.96
64	333.78	232.32	223.54	201.97	245.15	269.18	171.76	190.29
65	338.39	235.13	226.34	204.49	248.24	272.84	173.71	192.61
66	343.00	237.93	229.14	207.01	251.32	276.50	175.66	194.94
67	-	-	-	-	-	-	177.60	-
68	-	-	-	-	-	-	179.55	-
69	-	-	-	-	-	-	181.50	-
70	-	-	-	-	-	-	183.45	-

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.

Pickup On Demand Service

Add $20.00 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.

Zone Chart concerning appropriate International Service Center and partner Induction Facility from every ZIP Code in the nation (per year)	63.00

2320 International Priority Airmail (IPA)

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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	0.56	0.18	0.56	0.57	0.56	0.55	0.59	0.52	0.47	0.21
Mixed Country Containers	—	—	—	—	—	—	—	—	0.56	0.23

	Price Group								
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**
Direct Country Containers	0.20	0.51	0.47	0.18	0.52	0.21	0.21	0.20	0.16
Mixed Country Containers	0.21	0.53	0.51	0.19	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)	7.15	8.59	8.83	9.21	8.98	9.69	9.21	9.36	9.82	10.85
Direct Country Containers (ISC Drop Shipment)	4.84	5.37	6.55	6.94	6.73	7.26	6.88	6.76	7.35	7.16
Mixed Country Containers (ISC Drop Shipment)	—	—	—	—	—	—	—	—	7.71	7.51

	Price Group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	9.59	9.32	9.44	10.08	9.40	9.74	10.90	9.64	10.69
Direct Country Containers (ISC Drop Shipment)	7.30	6.83	6.88	7.80	6.79	7.27	7.20	7.33	8.42
Mixed Country Containers (ISC Drop Shipment)	7.61	7.19	7.28	8.17	7.29	7.32	7.55	7.64	8.85

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.62

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	12.49
Worldwide Nonpresorted Containers (ISC Drop Shipment)	9.84

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	0.56	0.18	0.56	0.57	0.56	0.55	0.59	0.52	0.47	0.21
Mixed Country Containers	—	—	—	—	—	—	—	—	0.56	0.23

	Price Group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.20	0.51	0.47	0.18	0.52	0.21	0.21	0.20	0.16
Mixed Country Containers	0.21	0.53	0.51	0.19	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)	6.10	7.33	7.55	7.89	7.70	8.30	7.88	8.00	8.40	9.27
Direct Country Containers (ISC Drop Shipment)	4.15	4.60	5.62	5.95	5.76	6.21	5.89	5.77	6.28	6.13
Mixed Country Containers (ISC Drop Shipment)	—	—	—	—	—	—	—	—	6.58	6.44

	Price Group								
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**
Direct Country Containers (Full Service)	8.21	7.96	8.07	8.63	9.40	9.74	10.90	9.64	10.69
Direct Country Containers (ISC Drop Shipment)	6.25	5.86	5.89	6.68	6.79	7.27	7.20	7.33	8.42
Mixed Country Containers (ISC Drop Shipment)	6.51	6.15	6.23	6.99	7.29	7.32	7.55	7.64	8.85

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.62

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	12.49
Worldwide Nonpresorted Containers (ISC Drop Shipment)	9.84

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	0.56	0.18	0.56	0.57	0.56	0.55	0.60	0.52	0.47	0.21
Mixed Country Containers	—	—	—	—	—	—	—	—	0.56	0.23

	Price Group								
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**
Direct Country Containers	0.20	0.51	0.47	0.18	0.52	0.21	0.21	0.20	0.16
Mixed Country Containers	0.21	0.53	0.51	0.19	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)	5.83	7.01	7.21	7.51	7.33	7.92	7.51	7.63	8.02	8.84
Direct Country Containers (ISC Drop Shipment)	3.95	4.40	5.35	5.66	5.50	5.93	5.61	5.52	5.99	5.84
Mixed Country Containers (ISC Drop Shipment)	—	—	—	—	—	—	—	—	6.30	6.12

	Price Group								
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**
Direct Country Containers (Full Service)	7.83	7.60	7.70	8.22	9.40	9.74	10.90	9.64	10.69
Direct Country Containers (ISC Drop Shipment)	5.96	5.59	5.61	6.36	6.79	7.27	7.20	7.33	8.42
Mixed Country Containers (ISC Drop Shipment)	6.22	5.85	5.94	6.66	7.29	7.32	7.55	7.64	8.85

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.62

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	12.49
Worldwide Nonpresorted Containers (ISC Drop Shipment)	9.84

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	58.08	65.67	77.00	77.00	77.00	96.69	77.00	77.00	92.07	84.48
For each additional pound or fraction thereof	5.28	5.97	7.00	7.00	7.00	8.79	7.00	7.00	8.37	7.68

Maximum Weight (pounds)	Price Group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
11	94.05	79.75	77.00	93.72	77.00	87.12	84.48	94.05	92.62
For each additional pound or fraction thereof	8.55	7.25	7.00	8.52	7.00	7.92	7.68	8.55	8.42

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	22.76	28.15	35.35	35.35	35.35	51.50	35.35	35.35	47.14	44.66
6	23.16	28.95	36.51	36.51	36.51	53.43	36.51	36.51	48.86	45.52
7	23.56	29.75	37.67	37.67	37.67	55.36	37.67	37.67	50.58	46.38
8	23.96	30.55	38.83	38.83	38.83	57.29	38.83	38.83	52.30	47.24
9	24.36	31.35	39.99	39.99	39.99	59.22	39.99	39.99	54.02	48.10
10	24.76	32.15	41.15	41.15	41.15	61.15	41.15	41.15	55.74	48.96
11	25.16	32.95	42.31	42.31	42.31	63.08	42.31	42.31	57.46	49.82
For each additional pound or fraction thereof	2.30	2.99	3.85	3.85	3.85	5.73	3.85	3.85	5.23	4.53

Maximum Weight (pounds)	Price Group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
5	51.19	38.28	35.35	51.42	35.35	44.75	44.66	51.19	49.56
6	52.56	39.40	36.51	52.68	36.51	46.02	45.52	52.56	50.97
7	53.93	40.52	37.67	53.94	37.67	47.29	46.38	53.93	52.38
8	55.30	41.64	38.83	55.20	38.83	48.56	47.24	55.30	53.79
9	56.67	42.76	39.99	56.46	39.99	49.83	48.10	56.67	55.20
10	58.04	43.88	41.15	57.72	41.15	51.10	48.96	58.04	56.61
11	59.41	45.00	42.31	58.98	42.31	52.37	49.82	59.41	58.02
For each additional pound or fraction thereof	5.39	4.09	3.85	5.36	3.85	4.76	4.53	5.39	5.28

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	0.53	0.16	0.50	0.53	0.53	0.50	0.54	0.48	0.42	0.20
Mixed Country Containers	—	—	—	—	—	—	—	—	0.52	0.21

	Price Group								
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**
Direct Country Containers	0.18	0.43	0.48	0.16	0.48	0.20	0.20	0.18	0.15
Mixed Country Containers	0.19	0.44	0.52	0.18	0.52	0.21	0.21	0.19	0.16

ii. Per Pound

	Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	7.12	8.20	7.92	8.53	8.38	8.98	8.53	8.39	8.85	10.04
Direct Country Containers (ISC Drop Shipment)	4.81	5.14	5.90	6.42	6.27	6.71	6.36	6.06	6.62	6.63
Mixed Country Containers (ISC Drop Shipment)	—	—	—	—	—	—	—	—	6.72	6.96

	Price Group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	8.65	8.48	8.39	9.30	8.44	9.05	10.09	8.69	9.90
Direct Country Containers (ISC Drop Shipment)	6.59	6.20	6.06	7.22	6.09	6.73	6.66	6.62	7.80
Mixed Country Containers (ISC Drop Shipment)	6.82	6.53	6.72	7.41	6.75	6.79	6.99	6.85	7.94

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.57

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	11.49
Worldwide Nonpresorted Containers (ISC Drop Shipment)	9.05

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	0.53	0.17	0.50	0.53	0.53	0.50	0.54	0.48	0.43	0.20
Mixed Country Containers	—	—	—	—	—	—	—	—	0.52	0.21

	Price Group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.18	0.44	0.48	0.16	0.48	0.20	0.20	0.18	0.15
Mixed Country Containers	0.19	0.45	0.52	0.18	0.52	0.21	0.21	0.19	0.16

ii. Per Pound

	Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	6.07	7.04	6.79	7.30	7.17	7.67	7.30	7.18	7.58	8.59
Direct Country Containers (ISC Drop Shipment)	4.12	4.41	5.04	5.50	5.36	5.75	5.45	5.19	5.65	5.67
Mixed Country Containers (ISC Drop Shipment)	—	—	—	—	—	—	—	—	5.75	5.96

	Price Group								
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**
Direct Country Containers (Full Service)	7.41	7.23	7.18	7.96	8.44	9.05	10.09	8.69	9.90
Direct Country Containers (ISC Drop Shipment)	5.64	5.31	5.19	6.17	6.09	6.73	6.66	6.62	7.80
Mixed Country Containers (ISC Drop Shipment)	5.84	5.58	5.75	6.33	6.75	6.79	6.99	6.85	7.94

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.57

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	11.49
Worldwide Nonpresorted Containers (ISC Drop Shipment)	9.05

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	0.53	0.16	0.50	0.53	0.53	0.50	0.54	0.48	0.43	0.20
Mixed Country Containers	—	—	—	—	—	—	—	—	0.52	0.21

	Price Group								
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**
Direct Country Containers	0.18	0.44	0.48	0.16	0.48	0.20	0.20	0.18	0.15
Mixed Country Containers	0.19	0.45	0.52	0.18	0.52	0.21	0.21	0.19	0.16

ii. Per Pound

	Price Group									
	1 ($)	**2 ($)**	**3 ($)**	**4 ($)**	**5 ($)**	**6 ($)**	**7 ($)**	**8 ($)**	**9 ($)**	**10 ($)**
Direct Country Containers (Full Service)	5.80	6.69	6.47	6.96	6.83	7.32	6.96	6.84	7.21	8.20
Direct Country Containers (ISC Drop Shipment)	3.92	4.20	4.79	5.23	5.11	5.48	5.19	4.95	5.40	5.42
Mixed Country Containers (ISC Drop Shipment)	—	—	—	—	—	—	—	—	5.48	5.68

	Price Group								
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**
Direct Country Containers (Full Service)	7.07	6.92	6.84	7.60	8.44	9.05	10.09	8.69	9.90
Direct Country Containers (ISC Drop Shipment)	5.39	5.06	4.95	5.91	6.09	6.73	6.66	6.62	7.80
Mixed Country Containers (ISC Drop Shipment)	5.58	5.33	5.48	6.05	6.75	6.79	6.99	6.85	7.94

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.57

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	11.49
Worldwide Nonpresorted Containers (ISC Drop Shipment)	9.05

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	20.24	21.56	25.30	25.30	25.30	35.20	25.30	25.74	32.89	29.59
For each additional pound or fraction thereof	1.84	1.96	2.30	2.30	2.30	3.20	2.30	2.34	2.99	2.69

Maximum Weight (pounds)	Price Group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
11	32.89	26.51	25.74	34.65	25.74	29.59	29.59	32.89	41.14
For each additional pound or fraction thereof	2.99	2.41	2.34	3.15	2.34	2.69	2.69	2.99	3.74

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	18.61	17.11	13.36	13.36	13.36	18.92	13.36	13.58	18.33	17.26
6	18.74	17.69	14.89	14.89	14.89	21.47	14.89	15.16	20.35	18.87
7	18.87	18.27	16.42	16.42	16.42	24.02	16.42	16.74	22.37	20.48
8	19.00	18.85	17.95	17.95	17.95	26.57	17.95	18.32	24.39	22.09
9	19.13	19.43	19.48	19.48	19.48	29.12	19.48	19.90	26.41	23.70
10	19.26	20.01	21.01	21.01	21.01	31.67	21.01	21.48	28.43	25.31
11	19.39	20.59	22.54	22.54	22.54	34.22	22.54	23.06	30.45	26.92
For each additional pound or fraction thereof	1.76	1.87	2.05	2.05	2.05	3.11	2.05	2.09	2.77	2.45

Maximum Weight (pounds)	Price Group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
5	14.52	14.30	13.58	15.21	13.58	15.61	17.26	14.52	19.58
6	17.13	15.90	15.16	18.01	15.16	17.50	18.87	17.13	22.74
7	19.74	17.50	16.74	20.81	16.74	19.39	20.48	19.74	25.90
8	22.35	19.10	18.32	23.61	18.32	21.28	22.09	22.35	29.06
9	24.96	20.70	19.90	26.41	19.90	23.16	23.70	24.96	32.22
10	27.57	22.30	21.48	29.21	21.48	25.05	25.31	27.57	35.38
11	30.18	23.90	23.06	32.01	23.06	26.94	26.92	30.18	38.54
For each additional pound or fraction thereof	2.75	2.17	2.09	2.91	2.09	2.45	2.45	2.75	3.51

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	44.00	40.70	79.20	64.35	52.25	76.45	64.35	63.25	60.50
For each additional pound or fraction thereof	4.00	3.70	7.20	5.85	4.75	6.95	5.85	5.75	5.50

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 (ounces)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	9.50	11.75	13.75	13.25	13.50	13.25	13.25	13.00	13.50
2	9.50	11.75	13.75	13.25	13.50	13.25	13.25	13.00	13.50
3	9.50	11.75	13.75	13.25	13.50	13.25	13.25	13.00	13.50
4	9.50	11.75	13.75	13.25	13.50	13.25	13.25	13.00	13.50
5	9.50	11.75	13.75	13.25	13.50	13.25	13.25	13.00	13.50
6	9.50	11.75	13.75	13.25	13.50	13.25	13.25	13.00	13.50
7	9.50	11.75	13.75	13.25	13.50	13.25	13.25	13.00	13.50
8	9.50	11.75	13.75	13.25	13.50	13.25	13.25	13.00	13.50
12	15.50	20.75	22.75	22.25	22.50	22.25	22.25	22.00	22.50
16	15.50	20.75	22.75	22.25	22.50	22.25	22.25	22.00	22.50
20	15.50	20.75	22.75	22.25	22.50	22.25	22.25	22.00	22.50
24	15.50	20.75	22.75	22.25	22.50	22.25	22.25	22.00	22.50
28	15.50	20.75	22.75	22.25	22.50	22.25	22.25	22.00	22.50
32	15.50	20.75	22.75	22.25	22.50	22.25	22.25	22.00	22.50
36	24.50	31.75	33.75	35.25	34.50	33.25	33.25	31.00	33.50
40	24.50	31.75	33.75	35.25	34.50	33.25	33.25	31.00	33.50
44	24.50	31.75	33.75	35.25	34.50	33.25	33.25	31.00	33.50
48	24.50	31.75	33.75	35.25	34.50	33.25	33.25	31.00	33.50
52	36.50	45.75	50.75	57.25	49.50	53.25	57.25	51.00	49.50
56	36.50	45.75	50.75	57.25	49.50	53.25	57.25	51.00	49.50
60	36.50	45.75	50.75	57.25	49.50	53.25	57.25	51.00	49.50
64	36.50	45.75	50.75	57.25	49.50	53.25	57.25	51.00	49.50

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	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
2	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
3	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
4	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
5	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
6	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
7	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
8	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
12	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
16	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
20	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
24	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
28	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
32	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
36	23.28	30.16	32.06	33.49	32.78	31.59	31.59	29.45	31.83
40	23.28	30.16	32.06	33.49	32.78	31.59	31.59	29.45	31.83
44	23.28	30.16	32.06	33.49	32.78	31.59	31.59	29.45	31.83
48	23.28	30.16	32.06	33.49	32.78	31.59	31.59	29.45	31.83
52	34.68	43.46	48.21	54.39	47.03	50.59	54.39	48.45	47.03
56	34.68	43.46	48.21	54.39	47.03	50.59	54.39	48.45	47.03
60	34.68	43.46	48.21	54.39	47.03	50.59	54.39	48.45	47.03
64	34.68	43.46	48.21	54.39	47.03	50.59	54.39	48.45	47.03

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	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
2	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
3	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
4	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
5	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
6	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
7	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
8	9.03	11.16	13.06	12.59	12.83	12.59	12.59	12.35	12.83
12	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
16	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
20	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
24	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
28	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
32	14.73	19.71	21.61	21.14	21.38	21.14	21.14	20.90	21.38
36	23.28	30.16	32.06	33.49	32.78	31.59	31.59	29.45	31.83
40	23.28	30.16	32.06	33.49	32.78	31.59	31.59	29.45	31.83
44	23.28	30.16	32.06	33.49	32.78	31.59	31.59	29.45	31.83
48	23.28	30.16	32.06	33.49	32.78	31.59	31.59	29.45	31.83
52	34.68	43.46	48.21	54.39	47.03	50.59	54.39	48.45	47.03
56	34.68	43.46	48.21	54.39	47.03	50.59	54.39	48.45	47.03
60	34.68	43.46	48.21	54.39	47.03	50.59	54.39	48.45	47.03
64	34.68	43.46	48.21	54.39	47.03	50.59	54.39	48.45	47.03

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 Sevice

Add $20.00 for each Pickup on Demand stop.

* * *

2510 Outbound International

* * *

2510.2 Negotiated Service Agreement Groups

- Global Expedited Package Services (GEPS) Contracts (2510.3)
- Global Direct Contracts (2510.4)
- Global Bulk Economy (GBE) Contracts (2510.5)
- Global Plus Contracts (2510.6)
- Global Reseller Expedited Package Contracts (2510.7)
- Global Expedited Package Services (GEPS)—Non-Published Rates (2510.8)
- Priority Mail International Regional Rate Boxes—Non-Published Rates (2510.9)
- Outbound Competitive International Merchandise Return Service Agreement with Royal Mail Group, Ltd. (2510.10)
- Priority Mail International Regional Rate Boxes (PMI RRB) Contracts (2510.11)

* * *

2510.7 Global Reseller Expedited Package Contracts

2510.7.1 Description

a. Global Reseller Expedited Package Contracts provide discounted prices to a reseller for Global Express Guaranteed (GXG), Priority Mail Express International (PMEI), Priority Mail International (PMI), Outbound Single-Piece First-Class Package International Service (FCPIS), and Priority Mail International Regional Rate Boxes (PMI RRB) for destinations serviced by GXG, PMEI, PMI, and FCPIS. The reseller offers prices based on its contract to its customer (reseller's customers).

b. Preparation requirements are the same as for all GXG, PMEI, PMI, and FCPIS shipments with the following exceptions:

- The reseller's customers are required to use PC Postage from an authorized PC Postage vendor, or any other method authorized by the Postal Service under the reseller's Global Reseller Expedited Package contract, for payment of postage.
- The reseller's customers may be required to prepare specific shipments according to country specific requirements.
- The reseller's customers may be required to tender shipments through limited acceptance channels.
- Mail preparation requirements for PMI RRB are similar to those required for a PMI Medium Flat Rate Box shipment, except that the mailer must use a Priority Mail Regional Rate Box A~~,~~ or B~~, or C~~ with the specified markings, subject to size and weight limitations specific to PMI RRB that are set forth in the applicable Global Reseller Expedited Package Contract.

c. The reseller must be capable of either tendering at least 5,000 pieces on international mail to the Postal Service, or paying at least $100,000.00 in international postage to the Postal Service

d. For a reseller to qualify, the contract must cover its attributable costs.

~~e. Indemnity for ordinary, uninsured parcels is included in the price of postage for PMI RRB based on the weight of the item. The indemnity amount for PMI RRB is determined by the formula in UPU Parcel Post Regulations Article RC 149.2.1. This information is available in the Parcel Post Manual at www.upu.int. The formula, converted into U.S. equivalents of pounds and dollars, is shown in the International Mail Manual. It is updated annually to reflect the current SDR exchange rate.~~

* * *

2510.9 Priority Mail International Regional Rate Boxes—Non-Published Rates

2510.9.1 Description

a. Priority Mail International Regional Rate Boxes—Non-Published Rates (PMI RRB—NPR) service is available through customized negotiated service agreements. Prices under a PMI RRB—NPR agreement depends upon a mailer's revenue commitment.

b. PMI RRB—NPR negotiated service agreements provide tiered incentives for all destinations served by Priority Mail International Regional Rates Boxes.

c. To qualify for a PMI RRB—NPR agreement, a mailer must be capable, on an annualized basis, of paying at least $200,000.00 for Priority Mail International Regional Rates Boxes to the Postal Service under a PMI RRB—NPR agreement.

d. A mailer must commit to tender varying minimum postage of Priority Mail International Regional Rates Boxes on an annualized basis under a PMI RRB—NPR agreement.

e. Mail preparation requirements are similar to those required for a PMI Medium Flat Rate Box shipment, except that the mailer must use a Priority Mail Regional Rate Box A~~,~~ or B~~, or C~~ with the specified markings, subject to size and weight limitations specific to PMI RRB—NPR.

~~f. Indemnity for ordinary, uninsured parcels is included in the price of postage based on the weight of the item.~~

~~g~~f. Individual negotiated agreements must comply with the requirements specified in 39 U.S.C. § 3633.

~~h~~g. Individual negotiated agreements must be on file with the Commission within 10 days of their effective date.

2510.9.2 Size and Weight Limitations Requirements

	Length	Height	Thickness	Weight
Regional Rate Box A1	Outside Dimensions: Top Loaded: 10.125 x 7.125 x 5.0 inches Side Loaded: 13.0625 x 11.0625 x 2.5 inches			10 pounds
Regional Rate Box B1	Outside Dimensions: Top Loaded: 12.25 x 10.5 x 5.5 inches Side Loaded: 16.25 x 14.5 x 3 inches			20 pounds
~~Regional Rate Box C1~~	~~Outside Dimensions:~~ ~~Top Loaded: 15 x 12 x 12 inches~~			~~20 pounds~~

Notes

1. Notwithstanding any markings on the package for domestic service, size, and weight limitations.

* * *

~~2510.9.6 Indemnity~~

~~The indemnity amount is determined by the formula in UPU Parcel Post Regulations Article RC 149.2.1. This information is available in the Parcel Post Manual at www.upu.int. The formula, converted into U.S. equivalents of pounds and dollars, is shown in the International Mail Manual. It is updated annually to reflect the current SDR exchange rate.~~

2510.9.~~7~~6 Prices

PMI RRB—NPR

Prices are subject to the terms and conditions of individual negotiated agreements.

Pickup On Demand Service

Add $20.00 for each Pickup On Demand stop

2510.9.~~8~~7 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Priority Mail International Regional Rate Boxes—Non-Published Rates
  Baseline Reference
  Docket Nos. MC2013-53 and CP2013-69
  PRC Order No. 1783, July 19, 2013

2510.10 Outbound Competitive International Merchandise Return Service Agreement with Royal Mail Group, Ltd.

* * *

2510.11 Priority Mail International Regional Rate Boxes (PMI RRB) Contracts

2510.11.1 Description

a. Priority Mail International Regional Rate Boxes (PMI RRB) Contracts provide prices to a mailer for PMI RRB to certain destinations

b. Preparation requirements are the same as for all PMI shipments with the following exceptions:

- The mailer is required to use PC Postage from an authorized PC Postage vendor, or any other method authorized by the Postal Service under the mailer's PMI RRB contract, for payment of postage.
- The mailer may be required to prepare specific shipments according to country specific requirements.
- The mailer may be required to tender shipments through limited acceptance channels.
- Mail preparation requirements for PMI RRB are similar to those required for a PMI Medium Flat Rate Box shipment, except that the mailer must use a Priority Mail Regional Rate Box A~~,~~ or B~~, or C~~ with the specified markings, subject to size and weight limitations specific to PMI RRB that are set forth in the applicable PMI RRB Contract.

c. The mailer must be capable of either tendering at least 5,000 pieces of international mail to the Postal Service, or paying at least $100,000.00 in international postage to the Postal Service

d. For a mailer to qualify, the contract must cover its attributable costs.

2510.11.2 Size and Weight Limitations

Priority Mail International Regional Rate Box[1]

	Length	Height	Thickness	Weight
Regional Rate Box A[1]	Outside dimensions: Top Loaded: 10.125 x 7.125 x 5.0 inches Side Loaded: 13.0625 x 11.0625 x 2.5 inches			10 pounds
Regional Rate Box B[1]	Outside dimensions: Top Loaded: 12.25 x 10.5 x 5.5 inches Side Loaded: 16.25 x 14.5 x 3 inches			20 pounds

~~Regional Rate Box C[1]~~	~~Outside dimensions: Top Loaded: 15 x 12 x 12 inches:~~	~~20 pounds~~

Notes

1. Notwithstanding any marking on the package for domestic service, size, and weight limitations.

* * *

~~2510.11.6 Indemnity~~

~~Indemnity for ordinary, uninsured parcels is included in the price of postage for PMI RRB based on the weight of the item. The indemnity amount for PMI RRB is determined by the formula in UPU Parcel Post Regulations Article RC 154.3. This information is available in the Parcel Post Manual at www.upu.int. The formula, converted into U.S. equivalents of pounds and dollars, is shown in the International Mail Manual. It is updated annually to reflect the current SDR exchange rate.~~

2510.11.~~7~~6 Prices

PMI RRB

Prices are subject to the terms and conditions of individual negotiated service agreements.

Pickup On Demand Service

See 2315.7

2510.11.~~8~~7 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Priority Mail International Regional Rate Boxes Contracts 1

Baseline Reference
Docket Nos. MC2015-31 and CP2015-40
PRC Order No. 2364, February 24, 2015
Included Agreements
CP2015-40, expires March ~~16~~31, 2016
CP2015-130, expires September 30, 2016

* * *

2600 Special Services

* * *

2605 Address Enhancement Services

* * *

2605.2 Prices

	($)
AEC	
Per record processed	0.023
Minimum charge per list	23.00
AMS API Address Matching System Application Program Interface (per year, per platform) [1]	
Developer's Kit, one platform	5050.00
Each Additional, per platform	1,800.00
Resell License, one platform	22,150.00
Each Additional, per platform	11,150.00
Additional Database License	
Number of Additional Licenses	
1-100	2,700.00
101-200	5,450.00
201-300	8,150.00
301-400	10,900.00
401-500	13,600.00
501-600	16,400.00
601-700	19,000.00
701-800	21,800.00
801-900	24,600.00
901-1,000	27,200.00
1,001-10,000	35,300.00
10,001-20,000	43,400.00
20,001-30,000	51,900.00
30,001-40,000	60,000.00

	($)
RDI API Developer's Kit[1]	
Each, per platform	405.00
Resell License, one platform	1,550.00
Each Additional, per platform	850.00
TIGER/ZIP+4 (per year)*	
Per State	75.00
All States	950.00

Notes

* See AMS Price Table for Single Issues of Additional Copies appearing at the end of section 1515.2. TIGER/ZIP+4 is not a subscription service. Single issue pricing does not apply.

1. Above API License Fees prorated during the first year based on the date of the license agreement.

2615 International Ancillary Services

* * *

2615.5 Outbound International Insurance

2615.5.1 Description

a. Optional Outbound International ~~i~~insurance may be purchased to protect against loss, damage, or missing contents for Priority Mail International parcels and Priority Mail International Large and Medium Flat Rate Boxes. ~~When additional insurance is purchased for uninsured Priority Mail International parcels, it replaces the indemnity coverage.~~

b. Optional additional merchandise insurance may be purchased to protect against loss, damage, or missing contents for Priority Mail Express International.

c. Optional additional insurance may be purchased to protect against loss, damage, or missing contents for Global Express Guaranteed.

* * *

2615.5.3 Prices

Outbound International Insurance

a. Priority Mail International Insurance and Priority Mail Express International Merchandise Insurance

Indemnity Limit Not Over ($)	Price ($)
~~50~~[1]	~~1.55~~
~~100~~[1]	~~2.70~~
200[1]	~~3.85~~ 0.00
300	5.00
400	6.15
500	7.30
600	8.45
700	9.60
800	10.75
900	11.90
Over 900	11.90 plus 1.15 for each 100.00 or fraction thereof over 900.00. Maximum indemnity varies by country.

Notes

1. ~~Applies only to Priority Mail International. There is no fee for Priority Mail Express International Merchandise Insurance up to $200.~~
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

2620 International Money Transfer Service—Outbound

* * *

2620.3 Prices

International Money Order

	($)
Per International Money Order	~~4.50~~ 4.75
Inquiry Fee	~~5.75~~ 5.95

Vendor Assisted Electronic Money Transfer

	Transfer Amount		
	Minimum Amount ($)	**Maximum Amount ($)**	**Per Transfer ($)**
Electronic Money Transfer	0.01	750.00	~~11.00~~ 11.40
	750.01	1,500.00	~~16.50~~ 17.10
Refund	0.01	1,500.00	~~26.00~~ 26.95
Change of Recipient	0.01	1,500.00	~~12.00~~ 12.40

Electronic Money Transfer

[Reserved]

* * *

2630 Premium Forwarding Service

* * *

2630.2 Prices

	($)
Online Enrollment (Commercial and Residential)	17.10
Retail Counter Enrollment (Residential Only)	18.65
Weekly Reshipment (Residential Only)	18.65

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2640 Post Office Box Service

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2640.4 Prices

Regular – Semi-Annual Fees[1, 2, 3]

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
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.

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	1 ¼ semiannual price
231 to 270	1 ½ semiannual price
271 to full year	Two times semiannual price

Ancillary Post Office Box Services

	($)
Key duplication or replacement	6.00
Lock replacement	20.00
Key deposit[1]	3.00

Notes

1. Key deposit only applies to additional keys or replacement keys.

2645 Competitive Ancillary Services

2645.1 Adult Signature

2645.1.1 Description

a. Adult Signature service may be requested at the time of mailing and provides electronic confirmation of the delivery or attempted delivery of the mailpiece, and, upon request, the recipient's signature, with two options:

- Adult Signature Required, which requires the signature of anyone 21 years of age or older at the recipient address; and
- Adult Signature Restricted Delivery, which requires the signature of the addressee (natural person) only, who must be 21 years of age or older.

b. Photo identification of the mail recipient showing date of birth is required prior to delivery.

c. The Postal Service maintains a record of delivery (which includes the recipient's signature) for a specified period of time.

d. Adult Signature service is available with Priority Mail Express, Priority Mail, First-Class Mail (parcels only), First-Class Package Service, and Parcel Select.

2645.1.2 Prices

	($)
Adult Signature Required	5.70
Adult Signature Restricted Delivery	5.95

2645.2 Package Intercept Service

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2645.2.2 Prices

	($)
Package Intercept Service	12.55

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PART D

COUNTRY PRICE LISTS FOR INTERNATIONAL MAIL

4000 COUNTRY PRICE LISTS FOR INTERNATIONAL MAIL

Country	Market Dominant	Competitive						
			International Expedited Services					
	SPFCMI[1]	FCPIS[2]	GXG[3]	PMEI[4]	PMEI Flat Rate Envelope[4]	PMI[5]	PMI Flat Rate Envelopes and Boxes[5]	IPA & ISAL[6]
A								
Afghanistan	6	6	6	6	8	6	8	19
Albania	4	4	4	4	8	4	8	16
Algeria	8	8	4	8	8	8	8	19
Andorra	5	5	5	5	8	5	8	15
Angola	7	7	4	7	8	7	8	19
Anguilla	9	9	7	9	8	9	8	17
Antigua & Barbuda	9	9	7	9	8	9	8	17
Argentina	9	9	8	9	2	9	2	10
Armenia	4	4	4	4	8	4	8	19
Aruba	9	9	7	9	8	9	8	17
Ascension	7	7	-	-	-	7	8	16
Australia	3	3	6	10	6	10	6	9
Austria	5	5	5	5	4	5	4	12
Azerbaijan	4	4	4	4	8	4	8	19
B								
Bahamas	9	9	7	9	8	9	8	17
Bahrain	8	8	6	8	8	8	8	19
Bangladesh	6	6	6	6	8	6	8	19
Barbados	9	9	7	9	8	9	8	17
Belarus	4	4	4	4	8	4	8	16
Belgium	5	5	3	5	4	5	4	12
Belize	9	9	8	9	8	9	8	17
Benin	7	7	4	7	8	7	8	19
Bermuda	9	9	7	9	8	9	8	17
Bhutan	6	6	6	6	8	6	8	19
Bolivia	9	9	8	9	2	9	2	17
Bosnia-Herzegovina	4	4	4	4	8	4	8	16
Botswana	7	7	4	7	8	7	8	19
Brazil	9	9	8	15	2	15	2	10
British Virgin Islands	9	9	7	9	8	9	8	17
Brunei Darussalam	6	6	4	6	8	6	8	18
Bulgaria	4	4	4	4	8	4	8	16
Burkina Faso	7	7	4	7	8	7	8	19
Burma (Myanmar)	6	6	-	6	8	6	8	19
Burundi	7	7	4	7	8	7	8	19

Country	Market Dominant	Competitive						
			International Expedited Services					
	SPFCMI[1]	FCPIS[2]	GXG[3]	PMEI[4]	PMEI Flat Rate Envelope[4]	PMI[5]	PMI Flat Rate Envelopes and Boxes[5]	IPA & ISAL[6]
C								
Cambodia	6	6	8	6	8	6	8	18
Cameroon	7	7	4	7	8	7	8	19
Canada	1	1	1	1	1	1	1	1
Cape Verde	7	7	4	7	8	7	8	19
Cayman Islands	9	9	7	9	8	9	8	17
Central African Republic	7	7	-	7	8	7	8	19
Chad	7	7	4	7	8	7	8	19
Chile	9	9	8	9	2	9	2	17
China	3	3	6	14	3	14	3	14
Colombia	9	9	8	9	2	9	2	17
Comoros	7	7	-	7	8	7	8	19
Congo, Democratic Republic of the	7	7	4	7	8	7	8	19
Congo, Republic of the	7	7	4	7	8	7	8	19
Costa Rica	9	9	8	9	8	9	8	17
Cote d'Ivoire (Ivory Coast)	7	7	4	7	8	7	8	19
Croatia	4	4	4	4	8	4	8	16
Cuba	9	9	-	-	-	9	8	17
Curacao	9	9	7	9	8	9	8	13
Cyprus	4	4	6	4	8	4	8	19
Czech Republic	4	4	4	4	8	4	8	16
D								
Denmark	5	5	5	5	4	5	4	12
Djibouti	7	7	4	7	8	7	8	19
Dominica	9	9	7	9	8	9	8	17
Dominican Republic	9	9	7	9	2	9	2	17

Country	Market Dominant	Competitive						
			International Expedited Services					
	SPFCMI[1]	FCPIS[2]	GXG[3]	PMEI[4]	PMEI Flat Rate Envelope[4]	PMI[5]	PMI Flat Rate Envelopes and Boxes[5]	IPA & ISAL[6]
E								
Ecuador	9	9	8	9	2	9	2	17
Egypt	8	8	6	8	7	8	7	19
El Salvador	9	9	8	9	8	9	8	17
Equatorial Guinea	7	7	-	7	8	7	8	19
Eritrea	7	7	4	7	8	7	8	19
Estonia	4	4	4	4	8	4	8	16
Ethiopia	8	8	4	8	8	8	8	19
F								
Falkland Islands	9	9	-	-	-	9	8	17
Faroe Islands	5	5	5	5	8	5	8	16
Fiji	6	6	8	6	8	6	8	18
Finland	5	5	5	5	4	5	4	12
France	5	5	3	13	4	13	4	5
French Guiana	9	9	8	9	8	9	8	17
French Polynesia	6	6	4	6	8	6	8	18
G								
Gabon	7	7	4	7	8	7	8	19
Gambia	7	7	4	7	8	7	8	19
Georgia, Republic of	4	4	4	4	8	4	8	19
Germany	5	5	3	16	4	16	4	4
Ghana	7	7	4	7	8	7	8	19
Gibraltar	5	5	4	5	8	5	8	15
Great Britain and Northern Ireland	5	5	3	11	4	11	4	3
Greece	5	5	5	5	8	5	8	13
Greenland	5	5	5	-	-	5	8	15
Grenada	9	9	7	9	8	9	8	17
Guadeloupe	9	9	7	9	8	9	8	17
Guatemala	9	9	8	9	2	9	2	17
Guinea	7	7	4	7	8	7	8	19
Guinea-Bissau	7	7	-	7	8	7	8	19
Guyana	9	9	8	9	2	9	2	17
H								
Haiti	9	9	7	9	8	9	8	17
Honduras	9	9	8	9	8	9	8	17
Hong Kong	3	3	3	3	3	3	3	11
Hungary	4	4	4	4	8	4	8	16

Country	Market Dominant SPFCMI[1]	Competitive							
		FCPIS[2]	International Expedited Services			PMI[5]	PMI Flat Rate Enve-lopes and Boxes[5]	IPA & ISAL[6]
			GXG[3]	PMEI[4]	PMEI Flat Rate Enve-lope[4]			
I								
Iceland	5	5	5	5	8	5	8	15
India	6	6	6	6	5	6	5	14
Indonesia	6	6	6	6	3	6	3	18
Iran	8	8	-	-	-	8	8	19
Iraq	8	8	6	8	7	8	7	19
Ireland (Eire)	5	5	3	5	4	5	4	13
Israel	5	5	6	8	7	8	7	13
Italy	5	5	3	5	4	5	4	7
J								
Jamaica	9	9	7	9	8	9	8	17
Japan	3	3	3	12	3	12	3	6
Jordan	8	8	6	8	7	8	7	19
K								
Kazakhstan	6	6	4	6	8	6	8	19
Kenya	7	7	4	7	8	7	8	19
Kiribati	6	6	-	6	8	6	8	18
Korea, Democratic People's Republic of (North)	6	6	-	-	-	6	8	18
Korea, Republic of (South)	3	3	6	3	3	3	3	11
Kosovo	5	5	4	5	8	5	8	16
Kuwait	8	8	6	8	8	8	8	19
Kyrgyzstan	6	6	4	6	8	6	8	16

Country	Market Dominant	Competitive						
			International Expedited Services					
	SPFCMI[1]	FCPIS[2]	GXG[3]	PMEI[4]	PMEI Flat Rate Envelope[4]	PMI[5]	PMI Flat Rate Envelopes and Boxes[5]	IPA & ISAL[6]
L								
Laos	6	6	8	6	8	6	8	18
Latvia	4	4	4	4	8	4	8	16
Lebanon	8	8	6	8	8	8	8	19
Lesotho	7	7	4	7	8	7	8	19
Liberia	7	7	4	7	8	7	8	19
Libya	8	8	4	8	8	8	8	19
Liechtenstein	5	5	5	5	8	5	8	15
Lithuania	4	4	4	4	8	4	8	16
Luxembourg	5	5	3	5	4	5	4	15
M								
Macao	6	6	3	6	8	6	8	16
Macedonia, Republic of	4	4	4	4	8	4	8	16
Madagascar	7	7	4	7	8	7	8	19
Malawi	7	7	4	7	8	7	8	19
Malaysia	6	6	6	6	8	6	8	18
Maldives	6	6	6	6	8	6	8	19
Mali	7	7	4	7	8	7	8	19
Malta	5	5	5	5	8	5	8	19
Martinique	9	9	7	9	8	9	8	17
Mauritania	7	7	4	7	8	7	8	19
Mauritius	7	7	4	7	8	7	8	19
Mexico	2	2	2	2	2	2	2	2
Moldova	4	4	4	4	8	4	8	19
Mongolia	6	6	4	6	3	6	3	18
Montenegro	5	5	4	5	8	5	8	17
Montserrat	9	9	7	-	-	9	8	17
Morocco	8	8	4	8	8	8	8	19
Mozambique	7	7	4	7	8	7	8	19

Country	Market Dominant	Competitive						
			International Expedited Services					
	SPFCMI[1]	FCPIS[2]	GXG[3]	PMEI[4]	PMEI Flat Rate Envelope[4]	PMI[5]	PMI Flat Rate Envelopes and Boxes[5]	IPA & ISAL[6]
N								
Namibia	7	7	4	7	8	7	8	19
Nauru	6	6	-	6	8	6	8	18
Nepal	6	6	6	6	8	6	8	18
Netherlands	5	5	3	17	4	17	4	12
New Caledonia	6	6	8	6	8	6	8	18
New Zealand	6	6	6	10	6	10	6	9
Nicaragua	9	9	8	9	8	9	8	17
Niger	7	7	4	7	8	7	8	19
Nigeria	7	7	4	7	8	7	8	19
Norway	5	5	5	5	4	5	4	12
O								
Oman	8	8	6	8	8	8	8	19
P								
Pakistan	6	6	6	6	8	6	8	19
Panama	9	9	8	9	8	9	8	17
Papua New Guinea	6	6	8	6	8	6	8	18
Paraguay	9	9	8	9	2	9	2	17
Peru	9	9	8	9	2	9	2	17
Philippines	6	6	6	6	3	6	3	14
Pitcairn Island	6	6	-	-	-	6	8	18
Poland	4	4	4	4	8	4	8	12
Portugal	5	5	5	5	4	5	4	13
Q								
Qatar	8	8	6	8	8	8	8	19
R								
Reunion	9	9	4	-	-	9	8	19
Romania	4	4	4	4	8	4	8	16
Russia	4	4	4	4	8	4	8	16
Rwanda	7	7	4	7	8	7	8	19

Country	Market Dominant	Competitive						
			International Expedited Services					
	SPFCMI[1]	FCPIS[2]	GXG[3]	PMEI[4]	PMEI Flat Rate Envelope[4]	PMI[5]	PMI Flat Rate Envelopes and Boxes[5]	IPA & ISAL[6]
S								
St. Kitts (St. Christopher) & Nevis	9	9	7	9	8	9	8	17
Saint Helena	7	7	-	-	-	7	8	19
Saint Lucia	9	9	7	9	8	9	8	17
~~Saint Maarten~~	~~9~~	~~9~~	~~7~~	~~9~~	~~8~~	~~9~~	~~8~~	~~13~~
Saint Pierre & Miquelon	4	4	-	-	-	4	8	17
Saint Vincent & Grenadines	9	9	7	9	8	9	8	17
Samoa	6	6	-	6	8	6	8	18
San Marino	5	5	3	5	8	5	8	12
Sao Tome & Principe	7	7	-	7	8	7	8	16
Saudi Arabia	8	8	4	8	7	8	7	19
Senegal	7	7	4	7	8	7	8	19
Serbia, Republic of	5	5	4	5	8	5	8	16
Seychelles	7	7	4	7	8	7	8	19
Sierra Leone	7	7	-	7	8	7	8	19
Singapore	6	6	3	6	3	6	3	11
Sint Maarten	9	9	7	9	8	9	8	13
Slovak Republic (Slovakia)	5	5	4	5	4	5	4	16
Slovenia	5	5	4	5	4	5	4	13
Solomon Islands	6	6	-	6	8	6	8	18
Somalia	-	-	-	-	-	-	-	19
South Africa	7	7	4	7	8	7	8	14
Spain	5	5	5	5	4	5	4	8
Sri Lanka	6	6	6	6	8	6	8	19
Sudan	7	7	-	7	8	7	8	19
Suriname	9	9	8	9	8	9	8	17
Swaziland	7	7	4	7	8	7	8	19
Sweden	5	5	5	5	4	5	4	12
Switzerland	5	5	5	5	4	5	4	12
Syrian Arab Republic (Syria)	8	8	-	8	8	8	8	19

Country	Market Dominant	Competitive						
			International Expedited Services					
	SPFCMI[1]	FCPIS[2]	GXG[3]	PMEI[4]	PMEI Flat Rate Envelope[4]	PMI[5]	PMI Flat Rate Envelopes and Boxes[5]	IPA & ISAL[6]
T								
Taiwan	6	6	3	6	8	6	8	14
Tajikistan	6	6	-	6	8	6	8	19
Tanzania	7	7	4	7	8	7	8	19
Thailand	6	6	6	6	3	6	3	14
Timor—Leste, Democratic Republic of	6	6	6	-	-	6	8	18
Togo	7	7	4	7	8	7	8	19
Tonga	6	6	4	6	8	6	8	18
Trinidad & Tobago	9	9	7	9	8	9	8	17
Tristan da Cunha	7	7	-	-	-	7	8	19
Tunisia	8	8	4	8	8	8	8	19
Turkey	4	4	6	4	7	4	7	16
Turkmenistan	6	6	-	6	8	6	8	16
Turks & Caicos Islands	9	9	7	9	8	9	8	17
Tuvalu	6	6	-	6	8	6	8	18
U								
Uganda	7	7	4	7	8	7	8	19
Ukraine	4	4	4	4	8	4	8	19
United Arab Emirates	8	8	6	8	7	8	7	19
Uruguay	9	9	8	9	2	9	2	17
Uzbekistan	6	6	4	6	8	6	8	19
V								
Vanuatu	6	6	8	6	8	6	8	18
Vatican City	5	5	3	5	8	5	8	15
Venezuela	9	9	8	9	2	9	2	17
Vietnam	6	6	6	6	3	6	3	18
W								
Wallis & Futuna Islands	6	6	4	-	-	6	8	18
Y								
Yemen	8	8	6	8	7	8	7	19
Z								
Zambia	7	7	4	7	8	7	8	19

Zimbabwe	7	7	4	7	8	7	8	19

Notes

1. SPFCMI = Single-Piece First-Class Mail International. The same Country Price Groups also apply to International Direct Sacks—M-Bags.

2. FCPIS = Outbound Single-Piece First-Class Package International Service.

3. GXG = Global Express Guaranteed

4. PMEI = Priority Mail Express International. PMEI Flat Rate Envelope are not available to all countries. See Individual Country Listings in the International Mail Manual for availability.

5. PMI = Priority Mail International. PMI Flat Rate Envelopes and PMI Flat Rate Boxes are not available to all countries. Availability to certain destinations may be limited to PMI ~~f~~Flat ~~r~~Rate ~~e~~Envelopes and/or PMI ~~s~~Small ~~f~~Flat ~~r~~Rate ~~b~~Boxes. See Individual Country Listings in the International Mail Manual for availability.

6. IPA = International Priority Airmail.
ISAL = International Surface Air Lift.
IPA and ISAL service is not available to all countries. See Individual Country Listings in the International Mail Manual for availability.

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Part IV

Department of Health and Human Services

Centers for Medicare and Medicaid Services

42 CFR Parts 482, 484, 485
Medicare and Medicaid Programs; Revisions to Requirements for Discharge Planning for Hospitals, Critical Access Hospitals, and Home Health Agencies; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 482, 484, and 485

[CMS–3317–P]

RIN 0938–AS59

Medicare and Medicaid Programs; Revisions to Requirements for Discharge Planning for Hospitals, Critical Access Hospitals, and Home Health Agencies

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the discharge planning requirements that Hospitals, including Long-Term Care Hospitals and Inpatient Rehabilitation Facilities, Critical Access Hospitals, and Home Health Agencies must meet in order to participate in the Medicare and Medicaid programs. The proposed rule would also implement the discharge planning requirements of the Improving Medicare Post-Acute Care Transformation Act of 2014.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on January 4, 2016.

ADDRESSES: In commenting, please refer to file code CMS–3317–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3317–P, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3317–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Alpha-Banu Huq, (410) 786–8687.
Sheila C. Blackstock, (410) 786–1154.
Mary Collins, (410) 786–3189.
Scott Cooper, (410) 786–9465.
Jacqueline Leach, (410) 786–4282.
Lisa Parker, (410) 786–4665.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov* . Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

Acronyms

Because of the many terms to which we refer by acronym in this proposed rule, we are listing the acronyms used and their corresponding meanings in alphabetical order below:

AAA Area Agencies on Aging
ADA Americans with Disabilities Act
ADRC Aging and Disability Resources Centers
AHRQ Agency for Healthcare Research and Quality
AO Accrediting Organization
APRN Advanced Practice Registered Nurse
CAH Critical Access Hospital
CDC Centers for Disease Control and Prevention
CfCs Conditions for Coverage
CIL Centers for Independent Living
CLAS Culturally and Linguistically Appropriate Services in Health and Health Care
CMS Centers for Medicare and Medicaid Services
COI Collection of Information
CoPs Conditions of Participation
DO Doctor of Osteopathic Medicine
DRG Diagnosis-Related Group
EACH Essential Access Community Hospital
ECQM Electronically Specified Clinical Quality Measures
EHR Electronic Health Records
HHA Home Health Agencies
HHS Department of Health and Human Services
HIE Health Information Exchange
ICR Information Collection Requirements
IT Information Technology
IRF Inpatient Rehabilitation Facility
LTCH Long-Term Care Hospital
MAP Measure Applications Partnership
OASH Office of the Assistant Secretary for Health
OMB Office of Management and Budget
ONC Office of the National Coordinator for Health Information Technology
PA Physician Assistant
PAC Post-Acute Care
PCP Primary Care Provider
PDMP Prescription Drug Monitoring Program
PRA Paperwork Reduction Act
QAPI Quality Assessment and Performance Improvement
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
RPCH Rural Primary Care Hospital
SA State Survey Agencies
SAMHSA Substance Abuse and Mental Health Services Administration
SNF Skilled Nursing Facility

Table of Contents

I. Background

A. Overview

Discharge planning is an important component of successful transitions from acute care hospitals and post-acute care (PAC) settings. The transition may be to a patient's home (with or without PAC services), skilled nursing facility, nursing home, long term care hospital, rehabilitation hospital or unit, assisted living center, substance abuse treatment program, hospice, or a variety of other settings. The location to which a patient may be discharged should be based on the patient's clinical care requirements, available support network, and patient and caregiver treatment preferences and goals of care.

Although the current hospital discharge planning process meets the needs of many inpatients released from the acute care setting, some discharges result in less-than-optimal outcomes for patients including complications and adverse events that lead to hospital readmissions. Reducing avoidable hospital readmissions and patient complications presents an opportunity for improving the quality and safety of patient care while lowering health care costs.

Patients' post-discharge needs are frequently complicated and multi-factorial, requiring a significant level of on-going planning, coordination, and communication among the health care practitioners and facilities currently caring for a patient and those who will provide post-acute care for the patient, including the patient and his or her caregivers. The discharge planning process should ensure that patients and, when applicable, their caregivers, are properly prepared to be active partners and advocates for their healthcare and community support needs upon discharge from the hospital or PAC setting. Yet patients and their caregivers frequently are not meaningfully involved in the discharge planning process and are unable to name their diagnoses; list their medications, their purpose, or the major side effects; cannot explain their follow-up plan of care; or articulate their treatment preferences and goals of care. For patients who require PAC services, the discharge planning process should ensure that the transition from one care setting to another (for example, from a hospital to a skilled nursing facility or to home with help from a home health agency or community-based services provider (or both) is seamless. The receiving PAC facilities or organizations should have the necessary information and be prepared to assume responsibility for the care of the patient. When patients or receiving facilities or organizations do not have key information such as the information previously mentioned, they are less able to implement the appropriate post-discharge treatment plans. This puts patients at risk for serious complications and increases their chances of being re-hospitalized.

We also believe that hospitals and critical access hospitals (CAHs) should improve their focus on psychiatric and behavioral health patients, including patients with substance use disorders. While the current discharge planning requirements as well as those proposed in this rule include this subset of patients, we believe the special discharge planning needs of these patients are sometimes overlooked. We encourage hospital and CAHs to take the needs of psychiatric and behavioral health patients into consideration when planning discharge and arranging for PAC and community services. With these patients specifically, and just as we believe it should be with other types of patients being discharged, we believe hospitals and CAHs must:

- Identify the types of services needed upon discharge, including options for tele-behavioral health services as available and appropriate;
- Identify organizations offering community services in the psychiatric hospital or unit's community, and demonstrate efforts to establish partnerships with such organizations; arrange, as applicable, for the development and implementation of a specific psychiatric discharge plan for the patient as part of the patient's overall discharge plan; and
- Coordinate with the patient for referral for post-acute psychiatric or behavioral health care, including transmitting pertinent information to the receiving organization as well as making recommendations about the post-acute psychiatric or behavioral health care needed by the patient.

We have also found that not having a thorough understanding of available community services can impact the discharge planning process. If the discharge planning team and patients or their caregivers are not aware of the full range of post-hospital services available, including non-medical services and supports, patients may be sent to care settings that are inappropriate, ineffective, or of inadequate quality. The lack of consistent collaboration and teamwork among health care facilities, patients, their families, and relevant community organizations may negatively impact selection of the best type of patient placement, leading to less than ideal patient outcomes and unnecessary re-hospitalizations. When planning transitions, hospitals should consult with Aging and Disability Resource Centers (ADRCs) (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)), or Area Agencies on Aging (AAAs) (also defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) and Centers for Independent Living (CILs) (as defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a)), or Substance Abuse Mental Health Services Administration's (SAMHSA's) treatment locator, or any combination of the centers or associations. ADRCs, AAAs, and CILs are required by federal statute to help connect individuals to community services and supports, and many of these organizations already help chronically impaired individuals with transitions across settings, including transitions from hospitals and PAC settings back home. Ongoing communication with a feedback loop among health care practitioners and

relevant community organizations in all patient care settings would assist in better patient transitions, but this level of communication has not been consistently achieved among the numerous health care settings within communities across the country. It is estimated that one third of re-hospitalizations might be avoided with improved comprehensive transitional care from hospital to community.[1]

We believe the provisions of the Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act) (Pub. L. 113–185) that require hospitals, including but not limited to acute care hospitals, CAHs and certain PAC providers including long-term care hospitals (LTCHs), inpatient rehabilitation facilities (IRFs), home health agencies (HHAs), and skilled nursing facilities (SNFs), to take into account quality measures and resource use measures to assist patients and their families during the discharge planning process will encourage patients and their families to become active participants in the planning of their transition to the PAC setting (or between PAC settings). This requirement will allow patients and their families' access to information that will help them to make informed decisions about their post-acute care, while addressing their goals of care and treatment preferences. Patients and their families that are well informed of their choices of high-quality PAC providers, including providers of community services and supports, may reduce their chances of being re-hospitalized.

B. Legislative History

The IMPACT Act requires the standardization of PAC assessment data that can be evaluated and compared across PAC provider settings, and used by hospitals, CAHs, and PAC providers, to facilitate coordinated care and improved Medicare beneficiary outcomes. Section 2 of the IMPACT Act added new section 1899B to the Social Security Act (Act). That section states that the Secretary of the Department of Health and Human Services (the Secretary) must require PAC providers (that is, HHAs, SNFs, IRFs and LTCHs) to report standardized patient assessment data, data on quality measures, and data on resource use and other measures. Under section 1899B(a)(1)(B) of the Act, patient assessment data must be standardized and interoperable to allow for the exchange of data among PAC providers and other Medicare participating providers or suppliers. Section 1899B(a)(1)(C) of the Act requires the modification of existing PAC assessment instruments to allow for the submission of standardized patient assessment data to enable comparison of this assessment data across providers. The IMPACT Act requires that assessment instruments be modified to utilize the standardized data required under section 1899B(b)(1)(A) of the Act, no later than October 1, 2018 for SNFs, IRFs, and LTCHs and no later than January 1, 2019 for HHAs. The statutory timing varies for the standardized assessment data described in subsection (b), data on quality measures described in subsection (c), and data on resource use and other measures described in subsection (d) of section 1899B. We currently are developing additional public guidance and we note that many of these PAC provisions are being addressed in separate rulemakings. More information can be found on the CMS Web site at *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/IMPACT-Act-of-2014-and-Cross-Setting-Measures.html.*

Section 1899B(j) of the Act requires that we allow for stakeholder input, such as through town halls, open door forums, and mailbox submissions, before the initial rulemaking process to implement section 1899B. To meet this requirement, we provided the following opportunities for stakeholder input: (a) We convened a technical expert panel (TEP) to gather input on three cross-setting measures identified as potential measures to the requirements of the IMPACT Act, that included stakeholder experts and patient representatives on February 3, 2015; (b) we provided two separate listening sessions on February 10th and March 24, 2015 on the implementation of the IMPACT Act, which also gave the public the opportunity to give CMS input on their current use of patient goals, preferences, and health assessment information in assuring high quality, person-centered and coordinated care enabling long-term, high quality outcomes; (c) we sought public input during the February 2015 ad hoc Measure Applications Partnership (MAP) process regarding the measures under consideration with respect to IMPACT Act domains; and (d) we implemented a public mail box for the submission of comments in January 2015 located at *PACQualityInitiative@cms.hhs.gov.* The CMS public mailbox can be accessed on our PAC quality initiatives Web site: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/IMPACT-Act-of-2014-and-Cross-Setting-Measures.html.* Lastly, we held a National Stakeholder Special Open Door Forum to seek input on the measures on February 25, 2015.

Section 1899B(i) of the Act, which addresses discharge planning, requires the modification of the Conditions of Participation (CoPs) and subsequent interpretive guidance applicable to PAC providers, hospitals, and CAHs at least every 5 years, beginning no later than January 1, 2016. These regulations must require that PAC providers, hospitals, and CAHs take into account quality, resource use, and other measures under subsections (c) and (d) of section 1899B in the discharge planning process.

This proposed rule would implement the discharge planning requirements mandated in section 1899B(i) of the IMPACT Act by modifying the discharge planning or discharge summary CoPs for hospitals, CAHs, IRFs, LTCHs, and HHAs. The IMPACT Act identifies LTCHs and IRFs as PAC providers, but the hospital CoPs also apply to LTCHs and IRFs since these facilities, along with short-term acute care hospital, are classifications of hospitals. All classifications of hospitals are subject to the same hospital CoPs. Therefore, these PAC providers (including freestanding LTCHs and IRFs) are also subject to the proposed revisions to the hospital CoPs. Proposed discharge planning requirements for SNFs are addressed in the proposed rule, ''Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities'' (80 FR 42167, July 16, 2015) at *https://www.federalregister.gov/articles/2015/07/16/2015-17207/medicare-and-medicaid-programs-reform-of-requirements-for-long-term-care-facilities.* Compliance with these requirements will be assessed through on-site surveys by the Centers for Medicare & Medicaid Services (CMS), State Survey Agencies (SAs) or Accrediting Organization (AOs) with CMS-approved Medicare accreditation programs.

II. Provisions of the Proposed Regulations

A. Hospital Discharge Planning

Various sections of the Act list the requirements that each provider must meet to be eligible for Medicare and Medicaid participation. Each statutory provision also specifies that the Secretary may establish other

[1] (Coleman E, Parry C, Chambers S, Min S: The Care Transitions Intervention *Arch Intern Med.* 166 (2006): 1822–1828. and Naylor M, McCauley K: The effects of a discharge planning and home follow-up intervention on elders hospitalized with common medical and surgical cardiac conditions. *J Cardiovascular Nurs.* 14 (1999): 44–54.).

requirements as necessary in the interest of the health and safety of patients. The Medicare CoPs and Conditions for Coverage (CfCs) set forth the federal health and safety standards that providers and suppliers must meet to participate in the Medicare and Medicaid programs. The purposes of these conditions are to protect patient health and safety and to ensure that quality care is furnished to all patients in Medicare and Medicaid-participating facilities. In accordance with section 1864 of the Act, CMS uses state surveyors to determine whether a provider or supplier subject to certification qualifies for an agreement to participate in Medicare. However, under section 1865 of the Act, providers and suppliers subject to certification may instead elect to be accredited by private accrediting organizations whose Medicare accreditation programs have been approved by CMS as having standards and survey procedures that meet or exceed all applicable Medicare requirements.

Section 1861(e) of the Act defines the term ''hospital'' and paragraphs (1) through (8) of this section list the requirements that a hospital must meet to be eligible for Medicare participation. Section 1861(e)(9) of the Act specifies that a hospital must also meet other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution. In addition, section 1861(e)(6)(B) of the Act requires that a hospital have a discharge planning process that meets the discharge planning requirements of section 1861(ee) of the Act.

Under section 1861(e) of the Act, the Secretary has established in regulation at 42 CFR part 482 the requirements that a hospital must meet to participate in the Medicare program. The hospital CoPs are found at § 482.1 through § 482.66. Section 1905(a) of the Act provides that Medicaid payments may be applied to hospital services. Regulations at § 440.10(a)(3)(iii) require hospitals to meet the Medicare CoPs to qualify for participation in the Medicaid program.

The current hospital discharge planning requirements at § 482.43, ''Discharge planning,'' were originally published on December 13, 1994 (59 FR 64141), and were last updated on August 11, 2004 (69 FR 49268). Under the current discharge planning requirements, hospitals must have in effect a discharge planning process that applies to all inpatients. The hospital must also have policies and procedures specified in writing. Over the years, we have made continuous efforts to reduce patient readmissions by strengthening and modernizing the nation's health care system to provide access to high quality care and improved health at lower cost. Since 2004, there has been a growing recognition of the need to make discharge from the hospital to another care environment safer, and to reduce the rise in preventable and costly hospital readmissions, which are often due to avoidable adverse events. As a result of our overall efforts, we refined the discharge planning regulations in 2004 (69 FR 49268) and updated the interpretive guidance in 2013 (Pub. L. 100–07, State Operations Manual, Appendix A: *http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_a_hospitals.pdf*). We refer readers to the discharge planning section, ''Condition of Participation for Discharge Planning'', at *https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_a_hospitals.pdf.* As stated in this section of the State Operations Manual, ''Hospital discharge planning is a process that involves determining the appropriate post-hospital discharge destination for a patient; identifying what the patient requires for a smooth and safe transition from the hospital to his/her discharge destination; and beginning the process of meeting the patient's identified post-discharge needs.''

Subsequently, the IMPACT Act was signed on October 6, 2014, and directs the Secretary to publish regulations to modify CoPs and interpretive guidance to require PAC providers, hospitals and CAHs take into account quality, resource use, and other measures required by the IMPACT Act to assist hospitals, CAHs, PAC providers, patients, and the families of patients with discharge planning, and to also address the patient's treatment preferences and goals of care. In light of these concerns, our continued efforts to reduce avoidable hospital readmission, and the IMPACT Act requirements, we are proposing to revise the hospital discharge planning requirements.

The current discharge planning identification process at § 482.43(a) requires hospitals to identify patients for whom a discharge plan is necessary, but this does not necessarily lead to a discharge plan. The regulation does not specify criteria for such identification, leading to variation across acute care hospital settings as to how they approach this task. Some hospitals use self-developed or industry-generated criteria for identifying patients who may be in need of a discharge plan. Others use pre-determined clinical factors such as age, co-morbidities, previous hospitalizations, and available social support systems to identify patients who may need a discharge plan. Additionally, hospitals use any number of other factors such as physician preference, nursing, social work and case management experience and history, current workload, and common practice to develop the discharge plan. Finally, some hospitals develop discharge plans for every inpatient, regardless of any of the factors previously mentioned. As a result of these and other differences between hospitals, there is considerable variation in the extent to which there are successful transitions from acute care hospitals.

Similarly, the current requirements for a discharge planning evaluation of a patient, at § 482.43(b), after he or she is initially identified as potentially needing post-hospital services also do not guarantee the development of a discharge plan.

Hospital patients discharged back to their home may be given literature to read about medication usage and required therapies; prescriptions for post-hospital medications and supplies; and referrals to post-hospital resources. This approach does not adequately reinforce the necessary skills that patients, their caregivers, and support persons need to meet post-hospital clinical needs. Inadequate patient education has led to poor outcomes, including medication errors and omissions, infection, injuries, worsening of the initial medical condition, exacerbation of a different medical condition, and re-hospitalization.[2] Lack of patient education concerning medicine storage, disposal, and use may also be a factor in overdoses, substance use disorders and diversion of controlled substances.[3]

We also note there has been confusion in the hospital setting regarding the implementation requirement in the current discharge planning CoP. As stated at current § 482.43(c)(3), the hospital must arrange for the initial implementation of the patient's discharge plan. The level of implementation of this standard varies widely, leading to inconsistent transitions from the acute care hospital. We believe that providing more specific

[2] (Calkins D et al.: Patient-Physician Communication at Hospital Discharge and patient's Understanding of the Postdischarge Treatment Plan, *Arch Intern Med,* 157 (1997): 1026–1030. Minott J: Reducing Hospital Readmissions. Academy of Health. < *http://www.academyhealth.org/files/publications/Reducing_Hospital_Readmissions.pdf*> Accessed August 23, 2011).

[3] *http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4077453/pdf/theoncologist_1471.pdf.*

requirements to hospitals on what actions they must take prior to the patient's discharge or transfer to a PAC setting would lead to improved transitions of care and patient outcomes.

We propose to revise the existing requirements in the form of six standards at § 482.43. The most notable revision would be to require that all inpatients and specific categories of outpatients be evaluated for their discharge needs and have a written discharge plan developed. Many of the current discharge planning concepts and requirements would be retained, but revised to provide more clarity. We also propose to require specific discharge instructions for all patients. At present, hospitals have some discretion and not every patient receives specific, written instructions.

We have reviewed the available literature on readmissions and sought to understand the various factors that influence the causes of avoidable readmissions. We recognize that much evidence-based research has been done to identify interventions that reduce readmissions of individuals with specific characteristics or conditions such as the elderly, cardiac patients, and patients with chronic conditions.

We propose to continue our efforts to reduce patient readmissions by improving the discharge planning process that would require hospitals to take into account the patient's goals and preferences in the development of their plans and to better prepare patients and their caregiver/support person(s) (or both) to be active participants in self-care and by implementing requirements that would improve patient transitions from one care environment to another, while maintaining continuity in the patient's plan of care. The following is a discussion of each of the proposed standards.

We propose at § 482.43, Discharge planning, to require that a hospital have a discharge planning process that focuses on the patient's goals and preferences and on preparing patients and, as appropriate, their caregivers/support person(s) to be active partners in their post-discharge care, ensuring effective patient transitions from hospital to post-acute care while planning for post-discharge care that is consistent with the patient's goals of care and treatment preferences, and reducing the likelihood of hospital readmissions.

1. Design (Proposed § 482.43(a))

In newly proposed § 482.43(a), we propose to establish a new standard, ''Design'', and would require that hospital medical staff, nursing leadership, and other pertinent services provide input in the development of the discharge planning process. We also propose to require that the discharge planning process be specified in writing and be reviewed and approved by the hospital's governing body. We would expect that the discharge planning process policies and procedures would be developed and reviewed periodically by the hospital's governing body.

2. Applicability (Proposed § 482.43(b))

We propose to revise the current requirement at § 482.43(a), which requires a hospital to identify those patients for whom a discharge plan is necessary. At proposed § 482.43(b), ''Applicability,'' we would require that many types of patients be evaluated for post discharge needs. We would require that the discharge planning process apply to all inpatients, as well as certain categories of outpatients, including, but not limited to patients receiving observation services, patients who are undergoing surgery or other same-day procedures where anesthesia or moderate sedation is used, emergency department patients who have been identified by a practitioner as needing a discharge plan, and any other category of outpatient as recommended by the medical staff, approved by the governing body and specified in the hospital's discharge planning policies and procedures. We believe that the aforementioned categories of patients would benefit from an evaluation of their discharge needs and the development of a written discharge plan.

3. Discharge Planning Process (Proposed § 482.43(c))

We propose at § 482.43(c), ''Discharge planning process,'' to require that hospitals implement a discharge planning process to begin identifying, early in the hospital stay, the anticipated post-discharge goals, preferences, and needs of the patient and begin to develop an appropriate discharge plan for the patients identified in proposed § 482.43(b). The average length of stay in the hospital setting has decreased significantly since the current discharge planning standards were written. Timely identification of the patient's goals, preferences, and needs and development of the discharge plan would reduce delays in the overall discharge process. We propose to require that the discharge plan be tailored to the unique goals, preferences and needs of the patient. For example, based on the anticipated discharge needs, a discharge plan in the early stages of development for a young healthy patient could possibly be as concise as a plan to provide instructions on follow-up appointments, and information on the warning signs and symptoms which may indicate the need to seek medical attention. On the other hand, the discharge needs of patients with co-morbidities, complex medical or surgical histories (or both), with mental health or substance use disorders (including indications of opioid abuse), socio-economic and literacy barriers, and multiple medications would require a more extensive discharge plan that takes into account all of these factors and the patients treatment preferences and goals of care. As previously discussed, patient referrals to or consultation with community care organizations will be a key step, for some, in assuring successful patient outcomes. Therefore, we believe that discharge planning for patients is a process that involves the consideration of the patient's unique circumstances, treatment preferences, and goals of care, and not solely a documentation process.

We remind hospitals that they must continue to abide by federal civil rights laws, including Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), and section 504 of the Rehabilitation Act of 1973, when developing a discharge planning process. To this end, hospitals should take reasonable steps to provide individuals with limited English proficiency or physical, mental, or cognitive and intellectual disabilities meaningful access to the discharge planning process, as required under Title VI of the Civil Rights Act, as implemented at 45 CFR 80.3(b)(2). Discharge planning would be of little value to patients who cannot understand or appropriately follow the discharge plans discussed in this rule. Without appropriate language assistance or auxiliary aids and services, discharge planners would not be able to fully involve the patient and caregiver/support person in the development of the discharge plan. Furthermore, the discharge planner would not be fully aware of the patient's goals for discharge.

Additionally, effective discharge planning will assist hospitals in complying with the U.S. Supreme Court's holding in *Olmstead* v. *L.C.* (527 U.S. 581 (1999)), which found that the unjustified segregation of people with disabilities is a form of unlawful discrimination under the ADA. We note that effective discharge planning may assist hospitals in ensuring that individuals being discharged who

would otherwise be entitled to institutional services, have access to community based services when: (a) Such placement is appropriate; (b) the affected person does not oppose such treatment; and (c) the placement can be reasonably accommodated.

We also remind hospitals, HHAs, and CAHs of existing state laws and requirements regarding discharge planning and their obligations to abide by these requirements. Additionally, they should also be aware of unique and innovative state programs focused on discharge planning.

We propose to combine and revise two existing requirements, § 482.43(b)(2) and § 482.43(c)(1), into a single requirement at § 482.43(c)(1), simplifying the requirement and incorporating some minor clarifying revisions. The resulting provision would require that a registered nurse, social worker, or other personnel qualified in accordance with the hospital's discharge planning policy, coordinate the discharge needs evaluation and the development of the discharge plan.

In proposed § 482.43(c)(2), we propose to establish a specific time frame during which discharge planning must begin. Section 482.43(a) currently requires a hospital to identify those patients who may need a discharge plan at an early stage of hospitalization. Ideally, discharge planning begins at the time of inpatient admission or outpatient registration. We understand that this is not always practicable. However, the current requirement might be considered too imprecise and could allow for discharge planning to be repeatedly delayed and perhaps several days to elapse before discharge planning is considered. Therefore, we would clarify the requirement by requiring that a hospital would begin to identify anticipated discharge needs for each applicable patient within 24 hours after admission or registration, and the discharge planning process is completed prior to discharge home or transfer to another facility and without unduly delaying the patient's discharge or transfer. If the patient's stay was less than 24 hours, the discharge needs would be identified prior to the patient's discharge home or transfer to another facility. This policy would not apply to emergency-level transfers for patients who require a higher level of care. However, while an emergency-level transfer would not need a discharge evaluation and plan, we would expect that the hospital would send necessary and pertinent information with the patient that is being transferred to another facility.

We propose to retain the current requirement set out at § 482.43(c)(4), and re-designate it with clarifications at § 482.43(c)(3). Currently we require that the hospital reassess the patient's discharge plan if there are factors that may affect continuing care needs or the appropriateness of the discharge plan. We propose at § 482.43(c)(3) to require that the hospital's discharge planning process ensure an ongoing patient evaluation throughout the patient's hospital stay or visit to identify any changes in the patient's condition that would require modifications to the discharge plan. The evaluation to determine a patient's continued hospitalization (or in other words, their readiness for discharge or transfer), is a current standard medical practice, and additionally is a current hospital CoP requirement at § 482.24(c). This proposed standard would expand upon the current regulation by requiring that the discharge evaluation be ongoing, during the patient's hospitalization or outpatient visit, and that any changes in a patient's condition that would affect the patient's readiness for discharge or transfer be reflected and documented in the discharge plan.

We propose a new requirement at § 482.43(c)(4) that the practitioner responsible for the care of the patient be involved in the ongoing process of establishing the patient's goals of care and treatment preferences that inform the discharge plan, just as they are with other aspects of patient care during the hospitalization or outpatient visit.

We propose to re-designate § 482.43(b)(4) as § 482.43(c)(5) to require, that as part of identifying the patient's discharge needs, the hospital consider the availability of caregivers and community-based care for each patient, whether through self-care, follow-up care from a community-based providers, care from a caregiver/support person(s), care from post-acute health care facilities or, in the case of a patient admitted from a long-term care or other residential care facility, care in that setting.

Hospitals should be consistent in how they identify and evaluate the anticipated post-discharge needs of the patient to support and facilitate a safe transition from one care environment to another. The proposed requirement at § 482.43(c)(5) would require hospitals to consider the patient's or caregiver's capability and availability to provide the necessary post-hospital care. As part of the on-going discharge planning process, hospitals would identify areas where the patient or caregiver/support person(s) would need assistance, and address those needs in the discharge plan in a way that takes into account the patient's goals and preferences. In addition, we encourage hospitals to consider potential technological tools or methods, such as telehealth, to support the individual's health upon discharge

We propose that hospitals consider the availability of and access to non-health care services for patients, which may include home and physical environment modifications including assistive technologies, transportation services, meal services or household services (or both), including housing for homeless patients. These services may not be traditional health care services, but they may be essential to the patient's ongoing care post-discharge and ability to live in the community. Hospitals should be able to provide additional information on non-health care resources and social services to patients and their caregiver/support person(s) and they should be knowledgeable about the availability of these resources in their community, when applicable. In addition, we encourage hospitals to consider the availability of supportive housing, as an alternative to homeless shelters that can facilitate continuity of care for patients in need of housing.

We would expect hospitals to be well informed of the availability of community-based services and organizations that provide care for patients who are returning home or who want to avoid institutionalization, including ADRCs, AAAs, and CILs, and provide information on these services and organizations when appropriate. ADRCs, AAAs, and CILs are required by federal statute to help connect individuals to community services and supports, and many of these organizations already help chronically impaired individuals with transitions across settings, including transitions from hospitals and PAC settings back home.

We encourage hospitals to develop collaborative partnerships with providers of community-based services to improve transitions of care that might support better patient outcomes. More information on these community-based services and organizations can be found in the following Web sites:

- For Information on Aging and Disability Resource Centers (ADRCs): *http://www.adrc-tae.acl.gov/tiki-index.php?page=HomePage*
- For information on Centers for Independent Living (CILs): *http://www.ilru.org/projects/cil-net/cil-center-and-association-directory*
- For information on Area Agencies on Aging (AAAs): *http://www.aoa.acl.gov/AoA_Programs/OAA/*

How_To_Find/Agencies/find_agencies.aspx

Accordingly, we propose that hospitals must consider the following in evaluating a patient's discharge needs, including but not limited to:

- Admitting diagnosis or reason for registration;
- Relevant co-morbidities and past medical and surgical history;
- Anticipated ongoing care needs post-discharge;
- Readmission risk;
- Relevant psychosocial history;
- Communication needs, including language barriers, diminished eyesight and hearing, and self-reported literacy of the patient, patient's representative or caregiver/support person(s), as applicable;
- Patient's access to non-health care services and community-based care providers; and
- Patient's goals and treatment preferences.

During the evaluation of a patient's relevant co-morbidities and past medical and surgical history, we encourage providers to consider using their state's Prescription Drug Monitoring Program (PDMP). PDMPs are state-run electronic databases used to track the prescribing and dispensing of controlled prescription drugs to patients. They are designed to monitor this information for suspected abuse or diversion and can give a prescriber or pharmacist critical information regarding a patient's controlled substance abuse history. This information can help prescribers and pharmacists identify high-risk patients who would benefit from early interventions (*http://www.cdc.gov/drugoverdose/pdmp/*).

In 2013, HHS prepared a report to Congress regarding enhancing the interoperability of State prescription drug monitoring programs with other technologies and databases used for detecting and reducing fraud, diversion, and abuse of prescription drugs. The report, prepared by The Office of the Assistant Secretary for Health (OASH), The Office of the National Coordinator for Health Information Technology (ONC), SAMHSA, and the Centers for Disease Control and Prevention (CDC) cites positive research that suggests that PDMPs reduce the prescribing of Schedule II opioid analgesics, lowers substance abuse treatment rates from opioids, and potentially reduces doctor shopping by increasing awareness among providers about at-risk patients. In addition, the report notes that surveys indicate that prescribers find PDMPs to be useful tools.

In addition to highlighting the potential benefits, the report finds that PDMPs encounter challenges in two areas: Legal and policy challenges and technical challenges. Specifically, the report points out issues, including significant interoperability problems, such as the lack of standard methods to exchange and integrate data from PDMPs to health IT systems. The report also describes legal and policy issues regarding who can use and access PDMPs, concerns with timely data transmission, concerns about the reliance on third parties to transmit data between states, and privacy and security challenges. In addition, the report discusses fiscal challenges, technical challenges including the lack of common technical standards, vocabularies, system-level access controls to share information with EHRs and pharmacy systems, data transmission concerns, and concerns with the current manner in which providers access the electronic PDMP database.

The report concludes that while PDMPs are promising tools to reduce the prescription drug abuse epidemic and improve patient care, addressing these existing challenges can greatly improve the ability of states to establish interoperability and leverage PDMPs to reduce fraud, diversion, and abuse of prescription drugs. The report offers several recommendations for addressing these challenges and we refer readers to the report in its entirety at the following Web site: *https://www.healthit.gov/sites/default/files/fdasia1141report_final.pdf.*

Given the potential benefits of PDMPs as well as some of the challenges noted above, we are soliciting comments on whether providers should be required to consult with their state's PDMP and review a patient's risk of non-medical use of controlled substances and substance use disorders as indicated by the PDMP report. As discussed in detail below we are also soliciting comments on the use of PDMPs in the medication reconciliation process.

We propose a new requirement at § 482.43(c)(6) that the patient and the caregiver/support person(s), be involved in the development of the discharge plan and informed of the final plan to prepare them for post-hospital care. Hospitals should integrate input from the patient, caregiver/support person(s) whenever possible. This proposed requirement provides the opportunity to engage the patient or caregiver/support person(s) (or both) in post-discharge-decision making and supports the current patient rights requirement at § 483.13 in which the patient has the right to participate in and make decisions regarding the development and implementation of his or her plan of care. This proposed requirement clarifies our current expectation regarding engaging caregivers/support persons in evaluating and planning a patient's discharge or transfer.

We propose a new requirement at § 482.43(c)(7) to require that the patient's discharge plan address the patient's goals of care and treatment preferences. During the discharge planning process, we would expect that the appropriate medical staff would discuss the patient's post-acute care goals and treatment preferences with the patient, the patient's family or their caregiver/support persons (or both) and subsequently document these goals and preferences in the medical record. We would expect these documented goals and treatment preferences to be taken into account throughout the entire discharge planning process.

We propose a new requirement at § 482.43(c)(8) to require that hospitals assist patients, their families, or their caregiver's/support persons in selecting a PAC provider by using and sharing data that includes but is not limited to HHA, SNF, IRF, or LTCH data on quality measures and data on resource use measures. Furthermore, the hospital would have to ensure that the PAC data on quality measures and data on resource use measures is relevant and applicable to the patient's goals of care and treatment preferences. We would also expect the hospital to document in the medical record that the PAC data on quality measures and resource use measures were shared with the patient and used to assist the patient during the discharge planning process.

We note that quality measures are defined in the IMPACT Act as measures relating to at least the following domains: Standardized patient assessments, including functional status, cognitive function, skin integrity, and medication reconciliation; by contrast, resource use measures are defined as including total estimated Medicare spending per individual, discharge to community, and measures to reflect all-condition risk-adjusted preventable hospital readmission rates. Accordingly, this proposed rule does not address or include further definition of these terms, which will be addressed and established in forthcoming regulations or other issuances. However, we advise providers to use other sources for information on PAC quality and resource use data, such as the data provided through the Nursing Home Compare and Home Health Compare Web sites, until the measures stipulated

in the IMPACT Act are finalized. Once these measures are finalized, providers will be required to use the measures as directed by the appropriate regulations and issuances.

As required by the IMPACT Act, hospitals must take into account data on quality measures and data on resource use measures of PAC providers during the discharge planning process. We would expect that the hospital would be available to discuss and answer patients and their caregiver's questions about their post-discharge options and needs.

In order to increase patient involvement in the discharge planning process and to emphasize patient preferences throughout the patient's course of treatment, we believe that hospitals must consider the aforementioned data in light of the patient's goals of care and treatment preferences. For example, the hospital could provide quality data on PAC providers that are within the patient's preferred geographic area. In another instance, hospitals could provide quality data on HHAs based on the patient's need for continuing care post-discharge and preference to receive this care at home. Hospitals should assist patients as they choose a high quality PAC provider. However, we would expect that hospitals would not make decisions on PAC services on behalf of patients and their families and caregivers and instead focus on person-centered care to increase patient participation in post-discharge care decision making. Person-centered care focuses on the patient as the locus of control, supported in making their own choices and having control over their daily lives.

We propose to re-designate and revise the current requirement set out at § 482.43(b)(5) at new § 482.43(c)(9). We would require that the patient's discharge needs evaluation and discharge plan be documented and completed on a timely basis, based on the patient's goals, preferences, strengths, and needs, so that appropriate arrangements for post-hospital care are made before discharge. This requirement would prevent the patient's discharge or transfer from being unduly delayed. We believe that in response to this requirement, hospitals would establish more specific time frames for completing the evaluation and discharge plans based on the needs of their patients and their own operations. All relevant patient information would be incorporated into the discharge plan to facilitate its implementation and the discharge plan must be included in the patient's medical record. The results of the evaluation must also be discussed with the patient or patient's representative. Furthermore, we believe that hospitals will use their evaluation of the discharge planning process, with solicitation of feedback from other providers and suppliers in the community, as well as from patients and caregivers, to revise their timeframes, as needed. We encourage hospitals to make use of available health information technology, such as health information exchanges, to enhance the efficiency and effectiveness of their discharge process.

We propose to re-designate and revise the requirement at current § 482.43(e) at new § 482.43(c)(10). We would require that the hospital assess its discharge planning process on a regular basis. We propose to require that the assessment include ongoing review of a representative sample of discharge plans, including patients who were readmitted within 30 days of a previous admission, to ensure that they are responsive to patient discharge needs. This evaluation will assist hospitals to improve the discharge planning process. We believe the evaluation can be incorporated into the Quality Assessment and Performance Improvement (QAPI) process, although we have not explicitly required this coordination and solicit comments on doing so.

4. Discharge to Home (Proposed § 482.43(d))

We propose to re-designate and revise the current requirement at § 482.43(c)(5) (which currently requires that as needed, the patient and family or interested persons be counseled to prepare them for post-hospital care) as § 482.43(d), ''Discharge to home,'' to require that the discharge plan include, but not be limited to, discharge instructions for patients described in proposed § 482.43(b) in order to better prepare them for managing their health post-discharge. The phrase ''patients discharged to home'' would include, but not be limited to, those patients returning to their residence, or to the community if they do not have a residence, who require follow-up with their primary care provider (PCP) or a specialist; HHAs; hospice services; or any other type of outpatient health care service. The phrase ''patients discharged to home'' would not refer to patients who are transferred to another inpatient acute care hospital, inpatient hospice facility or a SNF. We believe that our proposed revisions to the current requirement provide more clarity with respect to our proposed intent, and allow us to state more fully what we would expect in the way of better preparing the patient or their caregiver(s)/support persons (or both) regarding post-discharge care.

We propose at § 482.43(d)(1) that discharge instructions must be provided at the time of discharge to patients, or the patient's caregiver/support person (s), (or both) who are discharged home or who are referred to PAC services. We are also proposing that practitioners/facilities (such as a HHA or hospice agency and the patient's PCP), receive the patient's discharge instructions at the time of discharge if the patient is referred to follow up PAC services. Discharge instructions can be provided to patients and their caregivers/support person(s) in different ways, including in paper and electronic formats, depending on the needs, preferences, and capabilities of the patients and caregivers. We would expect that discharge instructions would be carefully designed to be easily understood by the patient or the patient's caregiver/support person (or both). Resources on providing information that can be easily understood by patients are readily available and we refer readers to the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care (the National CLAS Standards), for guidance on providing instructions in a culturally and linguistically appropriate manner at *https://www.thinkculturalhealth.hhs.gov/content/clas.asp.* The National CLAS Standards are intended to advance health equity, improve quality, and help eliminate health care disparities by providing a blueprint for individuals and health and health care organizations to implement culturally and linguistically appropriate services.

In addition, as a best practice, hospitals should confirm patient or the patient's caregiver/support person's (or both) understanding of the discharge instructions. We recommend that hospitals consider the use of ''teach-back'' during discharge planning and upon providing discharge instructions to the patient. ''Teach-back'' is a way to confirm that a practitioner has explained to the patient what he or she needs to know in a manner that the patient understands. Training on the use of ''teach-back'' to ensure patient understanding of transition of care planning and appropriate medication use is readily available and we refer readers to the following resource for information on the use of ''teach-back'': *http://www.teachbacktraining.org.* At § 482.43(d)(2), we propose to set forth the minimum requirements for discharge instructions. The purpose of

discharge instructions is to guide patients and caregivers in the appropriate provision of post-discharge care. We propose to clarify our current requirement in § 482.43(c)(5) to require hospitals to provide instruction to the patient and his or her caregivers about care duties that they will need to perform in the patient's home. Instruction would be based on the specific needs of the patient as determined in the patient's discharge plan. This proposed requirement is consistent with the current requirement set forth at § 482.43(c)(5), which requires that ''the patient and family members or interested persons must be counseled to prepare them for post-hospital care . . . .'' We propose a new requirement at § 482.43(d)(2)(ii) that the discharge instructions include written information on the warning signs and symptoms that patients and caregivers should be aware of with respect to the patient's condition. The warning signs and symptoms might indicate a need to seek medical attention from an appropriate provider, depending on the severity level of the signs or symptoms. The written information would include instructions on what the person should do if these warning signs and symptoms present. Furthermore, the discharge instructions would include information about who to contact if these warning signs and symptoms present. This contact information may include practitioners such as the patient's primary care practitioner, the practitioner who was responsible for the patient's care while in the hospital or hospital emergency care departments, specialists, home health services, hospice services, or any other type of outpatient health care service.

At § 482.43(d)(2)(iii), we propose to require that the patient's discharge instructions include all medications prescribed and over-the-counter for use after the patient's discharge from the hospital. This should include a list of the name, indication, and dosage of each medication along with any significant risks and side effects of each drug as appropriate to the patient. Furthermore, we propose a new requirement at § 482.43(d)(2)(v) that the patient's medications would be reconciled. Medication reconciliation, according to the American Medical Association, is the process of making sense of patient medications and resolving conflicts between different sources of information to minimize harm and maximize therapeutic effects.[4] Patients, especially those with co-morbidities or chronic illnesses, often have multiple health care providers who prescribe medication. We note that interactions between specific prescription medications, as well as between specific prescription medications and over-the-counter medications, herbal preparations, and supplements are a growing concern, and are often not documented in the medical record. Medication reconciliation aims to improve patient safety by enhancing medication management.

In the context of this proposed rule, medication reconciliation would include reconciliation of the patient's discharge medication(s) as well as with the patient's pre-hospitalization/visit medication(s) (both prescribed and over-the-counter); comparing the medications that were prescribed before the hospital stay/visit and any medications started during the hospital stay/visit that are to be continued after discharge, and any new medications that patients would need to take after discharge. We would expect that any medication discrepancies (omissions, duplications, conflicts) would be corrected as part of the medication reconciliation process. Hospitals may utilize a number of approaches to ensure vigilant medication reconciliation. The medication reconciliation process should be a partnership between the patient and the healthcare team, be person-centered, and incorporate solutions to linguistic, cultural, socio-economic, and literacy barriers. We are proposing that all patients have an accurate medication list prior to hospital discharge or transfer. The actual process used for medication reconciliation might vary among hospitals. We encourage hospitals to make use of current health information technology when establishing their medication reconciliation process. There are also many published resources available to assist hospitals with implementing this requirement. We refer readers to the following examples of resources that can be used to assist hospitals with the implementation of a medication reconciliation process:

- The Re-Engineered Discharge (RED) Toolkit (*http://www.ahrq.gov/professionals/systems/hospital/red/toolkit/index.html*) includes guidance on educating patients on diagnoses, self-care, and warning signs, overcoming language barriers, and conducting post-discharge telephone calls.
- The Hospital Guide to Reducing Medicaid Readmissions (*http://www.ahrq.gov/professionals/systems/hospital/medicaidreadmitguide/index.html*) describes actions to improve transitions of care for vulnerable patients, including providing enhanced services for high risk patients.
- The AHRQ Health Literacy Universal Precautions Toolkit (*http://www.ahrq.gov/professionals/quality-patient-safety/quality-resources/tools/literacy-toolkit/*) contains tools on clear communication, the teach-back method, helping patients take medicine correctly, and encouraging questions.
- The SHARE Approach (*http://www.ahrq.gov/professionals/education/curriculum-tools/shareddecisionmaking/*) is a 5-step process for shared decision making that includes assessing patients' values and preferences.
- The Guide to Patient and Family Engagement in Hospital Quality and Safety (*http://www.ahrq.gov/professionals/systems/hospital/engagingfamilies/*) provides strategies to engage patients and families in discharge planning throughout their stay.
- Medications at Transitions and Clinical Handoffs (MATCH) Toolkit for Medication Reconciliation (*http://www.ahrq.gov/professionals/quality-patient-safety/patient-safety-resources/resources/match/match.pdf*) helps facilities establish a sound medication reconciliation process, evaluate the effectiveness of the existing processes, and identify and respond to any gaps.
- The MARQUIS (Multi-Center Medication Reconciliation Quality Improvement Study) (*https://innovations.ahrq.gov/qualitytools/multi-center-medication-reconciliation-quality-improvement-study-marquis-toolkit*) Toolkit helps facilities develop better ways for medications to be prescribed, documented, and reconciled accurately and safely at times of care transitions when patients enter and leave the hospital.

To enhance patient understanding of their medications, generic and proprietary names are expected to be provided for each medication, when available. The patient or caregiver/support person (or both) may be involved in reconciling medications and creating a new medication list. We would also expect that the medication reconciliation process would include a written list of all medications that a patient should take until further instructions are given by his or her practitioner at a follow-up appointment.

Furthermore, we would expect the medication reconciliation process to consider how patients would obtain their post-discharge medications. Many of the types of patients for whom discharge planning would be required under the proposed regulation are discharged from the hospital with

[4] American Medical Association, ''The Physician's Role in Medication Reconciliation,'' 2007.

medication prescriptions. Many patients do not realize that they will need to have prescriptions filled to continue the medication therapy that was started during their hospitalization/visit. A delay in obtaining necessary medication post-discharge could have significant adverse health effects. We believe patients or caregivers (or both) should be informed, in advance of the hospital discharge, of the anticipated need for filling outpatient (discharge) prescriptions, and have a plan on how they will obtain those medications. When necessary, assistance should be offered to the patient with identifying a pharmacy to fill the prescriptions post-discharge in a timely manner. In identifying a pharmacy, the hospital should consider whether the patient has prescription drug coverage that might require the patient to use a pharmacy within the drug plan's network and direct the patient appropriately.

As part of the medication reconciliation process, we encourage practitioners to consult with their state's PDMP. In section II.A.3 of this proposed rule we discuss the potential benefits as well as the challenges associated with the use of PDMPs. Given these potential benefits and challenges, we are soliciting comments on whether, as part of the medication reconciliation process, practitioners should be required to consult with their state's PDMP to reconcile patient use of controlled substances as documented by the PDMP, even if the practitioner is not going to prescribe a controlled substance.

We propose a new requirement at § 482.43(d)(2)(v) that written instructions, in paper or electronic format (or both), would be provided to the patient, and that the instructions would document follow-up care, appointments, pending and/or planned diagnostic tests, and any pertinent telephone numbers for practitioners that might be involved in the patient's follow-up care or for any providers/suppliers to whom the patient has been referred for follow-up care. The choice of format of the instructions should be based on patient and caregiver needs, preferences, and capabilities. Clear communication and discussions with the patient or other caregivers (or both) for follow-up care are an important determinant of patient outcomes following hospitalization. Hospitals should ascertain that the patient understands their discharge instructions. The major elements of any follow-up care would be required to be written so that the patient, caregiver/support person can refer to them post-hospitalization.

In addition to the patient receiving discharge instructions, it is important that the providers responsible for follow-up care with a patient (including the primary care provider (PCP) or other practitioner) receive the necessary medical information to support continuity of care. We therefore propose at § 482.43(d)(3) to require that the hospital send the following information to the practitioner (s) responsible for follow up care, if the practitioner has been clearly identified:

- A copy of the discharge instructions and the discharge summary within 48 hours of the patient's discharge;
- Pending test results within 24 hours of their availability;
- All other necessary information as specified in proposed § 482.43(e)(2).

We remind hospitals to provide this information in a manner that complies with all applicable privacy and security regulations.

Finally, we propose a new § 482.43(d)(4) to require, for patients discharged to home, that the hospital must establish a post-discharge follow-up process. Many studies have found that many patients experience major adverse health events post-discharge. These are often associated with medication compliance. As one example, a study, funded by Agency for Healthcare Research and Quality (AHRQ) and published in the *Annals of Internal Medicine,* found that one in five patients has a complication or adverse event after being discharged from the hospital.[5] Another study using data from all Florida hospitals found that 7.86 percent of hospital admissions were potentially preventable, related to the original condition requiring admission, and occurred within the first several weeks after discharge.[6] Post-discharge telephone call programs can improve patient safety and patient satisfaction, and may decrease the likelihood of post-discharge adverse events and hospital readmission. Post-discharge follow-up can help ensure that patients comprehend and adhere to their discharge instructions and medication regimens. Furthermore, post-discharge follow-up may identify problems in initiating follow-up care and detect complications of recovery early, resulting in early intervention, improved outcomes, and reduced re-hospitalization. A recent meta-analysis found a number of studies dealing with post-discharge follow-up.[7] This study ''found that a home visit within three days, care coordination by a nurse (most frequently a registered nurse or advanced-practice nurse), and communication between the hospital and the primary care provider were components of transitional care that were significantly associated with reduced short-term readmission rates.'' We do not propose to specify the mechanism(s) or timing of the follow-up program so that hospitals can determine how to best meet the needs of their patient population. However, we note the importance of ensuring that hospitals follow-up, post-discharge, with their most vulnerable patients, including those with behavioral health conditions. We encourage hospitals to consider the use of innovative, low-cost post-discharge tools and technologies where health care providers and caregivers can ask simple questions that help identify at-risk individuals, that can be utilized for identifying those at risk for readmissions.

5. Transfer of Patients to Another Health Care Facility (Proposed § 482.43(e))

We propose to re-designate and revise the standard currently set out at § 482.43(d) as § 482.43(e), ''Transfer of patients to another health care facility,'' by clarifying our expectations of the discharge and transfer of patients. We would continue to require that all hospitals communicate necessary information of patients who are discharged with transfer to another facility. The receiving facility may be another hospital (including an inpatient psychiatric hospital or a CAH) or a PAC facility. We believe that the transition of the patient from one environment to another should occur in a way that promotes efficiency and patient safety, through the communication of necessary information between the hospital and the receiving facility. We believe that the timely communication of necessary clinical information between health care providers support continuity of patient care, improves patient safety, and can reduce hospital readmissions. In 2014, many hospitals were using certified electronic health records that capture and standardize clinical data necessary to ensure safe transition in care delivery.

The current discharge requirement set out at § 482.43(d) requires hospitals that transfer patients to another facility to send with the patient (at the time of

[5] Adverse Drug Events Occurring Following Hospital Discharge. Forster, et al., 2005.

[6] Norbert Goldfield *et al.,* ''Identifying Potentially Preventable Readmissions,'' *Health Care Financing Review,* Fall 2008.

[7] Kim J. Verhaegh et al, ''Transitional Care Interventions Prevent Hospital Readmissions for Adults with Chronic Illnesses,'' *Health Affairs,* 33, no. 9 (2014).

transfer) the necessary medical information to the receiving facility. We know that transfers represent an increased period of risk for patients and that effective communication between care providers during transfers reduce this risk. In recognition of this, in August of 2011, the State of New Jersey mandated the use of a universal transfer form. Rhode Island and Massachusetts have also developed a continuity of care document or universal transfer form. The American Medical Directors Association has developed and recommends the use of a universal transfer form. Additionally, other tools and information are available from CMS (see *http://innovation.cms.gov/initiatives/CCTP/index.html*) and AHRQ (see *http://www.innovations.ahrq.gov/content.aspx?id=2577*) as well as through a number of professional organizations, including the National Transitions of Care Coalition (*www.ntocc.org*). Electronic health records could simplify the process of extracting necessary information when a resident is transferred to a nursing home and electronic Continuity of Care documents provide a standardized way to exchange critical information between providers. All of these tools and efforts are targeted at improving the communications between healthcare providers at the time of transfer. We do not propose to mandate a specific transfer form. However, we do propose to clarify our expectations regarding what constitutes the necessary medical information that must be communicated to a receiving facility to meet the patient's post-hospitalization health care goals, support continuity in the patient's care, and reduce the likelihood of hospital readmission. Moreover, we intend to align these data elements with the common clinical data set published in the ''2015 Edition of Health Information Technology (Health IT) Certification Critieria, Base Electronic Health Record (EHR) Definition, and ONC Health IT Certification Program Modifications'' final rule (80 FR 62601, October 16, 2015). By aligning the data elements proposed in this proposed rule with the common clinical data set specified for the 2015 edition, we are seeking to ensure that hospitals can meet these requirements using certified health IT systems and existing standards. Therefore, we propose, at the minimum, the following information to be provided to a receiving facility:

- Demographic information, including but not limited to name, sex, date of birth, race, ethnicity, and preferred language;
- Contact information for the practitioner responsible for the care of the patient and the patient's caregiver/support person(s);
- Advance directive, if applicable;
- Course of illness/treatment;
- Procedures;
- Diagnoses;
- Laboratory tests and the results of pertinent laboratory and other diagnostic testing;
- Consultation results;
- Functional status assessment;
- Psychosocial assessment, including cognitive status;
- Social supports;
- Behavioral health issues;
- Reconciliation of all discharge medications with the patient's pre-hospital

admission/registration medications (both prescribed and over-the-counter);

- All known allergies, including medication allergies;
- Immunizations;
- Smoking status;
- Vital signs;
- Unique device identifier(s) for a patient's implantable device(s), if any;
- All special instructions or precautions for ongoing care, as appropriate;
- Patient's goals and treatment preferences; and
- All other necessary information to ensure a safe and effective transition of care that supports the post-discharge goals for the patient.

In addition to these proposed minimum elements, necessary information must also include a copy of the patient's discharge instructions, the discharge summary, and any other documentation that would ensure a safe and effective transition of care, as applicable.

While we are not proposing a specific form, format, or methodology for the communication of this information for all facilities, we strongly believe that those facilities that are electronically capturing information should be doing so using certified health IT that will enable real time electronic exchange with the receiving provider. By using certified health IT, facilities can ensure that they are transmitting interoperable data that can be used by other settings, supporting a more robust care coordination and higher quality of care for patients. We are soliciting comments on these proposed medical information requirements.

We note that HHS has a number of initiatives designed to encourage and support the adoption of health information technology and to promote nationwide health information exchange to improve the quality of health care. HHS believes all patients, their families, and their healthcare providers should have consistent and timely access to health information in a standardized format that can be securely exchanged between the patient, providers, and others involved in the patient's care.[8] ONC recently released a document entitled ''Connecting Health and Care for the Nation: A Shared Nationwide Interoperability Roadmap'' (*https://www.healthit.gov/sites/default/files/hie-interoperability/nationwide-interoperability-roadmap-final-version-1.0.pdf*). The Roadmap identifies four critical pathways that health IT stakeholders should focus on now in order to create a foundation for long-term success: (1) Improve technical standards and implementation guidance for priority data domains and associated elements; (2) rapidly shift and align federal, state, and commercial payment policies from fee-for-service to value-based models to stimulate the demand for interoperability; (3) clarify and align federal and state privacy and security requirements that enable interoperability; and (4) align and promote the use of consistent policies and business practices that support interoperability and address those that impede interoperability, in coordination with stakeholders. In the near term, the roadmap focuses on ensuring individuals and providers across the continuum of care can send, receive, find and use priority data domains to improve health care quality and outcomes.

These initiatives are designed to encourage HIE among all health care providers, including those who are not eligible for the Electronic Health Record (EHR) Incentive Programs, and are designed to improve care delivery and coordination across the entire care continuum. Our revisions to this rule are intended to recognize the advent of electronic health information technology and to accommodate and support adoption of ONC certified health IT and interoperability standards. We believe that the use of this technology can effectively and efficiently help facilities and other providers improve internal care delivery practices, support the exchange of important information across care team members (including patients and caregivers) during transitions of care, and enable reporting of electronically specified clinical quality measures (eCQMs). For more information on guidance for ineligible providers, we direct stakeholders to the ONC guidance for EHR technology developers serving

[8] (HHS August 2013 Statement, ''Principles and Strategies for Accelerating Health Information Exchange.'')

providers ineligible for the Medicare and Medicaid EHR Incentive Programs titled ''Certification Guidance for EHR Technology Developers Serving Health Care Providers Ineligible for Medicare and Medicaid EHR Incentive Payments.'' (*http://www.healthit.gov/sites/default/files/generalcertexchangeguidance_final_&9-9-13.pdf*).

This guidance will be updated as new editions of certification criteria are released.

Additionally, we propose that the requirement and the timeframe for communicating necessary information for patients being transferred to another healthcare facility remain the same as in the current requirement. That is, hospitals would continue to be required to provide this information at the time of the patient's discharge and transfer to the receiving facility. Hospitals are encouraged to consider adapting or incorporating electronic tools (or both) to facilitate and streamline information that would fulfill the proposed discharge requirements to ensure a successful transfer of care. Hospitals are also encouraged to continue the practice of direct communication between the sending and receiving facilities. Clinician-to-clinician contact to discuss the patient's transfer, review information provided by the sending facility, and answer follow-up questions can help smooth the transfer process for the patient and the facilities. We believe that this direct communication is beneficial for all parties, and that this practice should continue to be used in addition to our proposed information-exchange requirements.

6. Requirements for Post-Acute Care Services (Proposed § 482.43(f))

We propose to re-designate and revise the requirements of current § 482.43(c)(6) through (8) at new § 482.43(f), ''Requirements for post-acute care services.'' This standard is based in part on specific statutory requirements located at sections 1861(ee)(2)(H) and 1861(ee)(3) of the Act, with the addition of IRF and LTCH PAC providers in the regulatory text, in order to provide consistency with the IMPACT Act. The current regulation directs hospitals to provide a list of available Medicare-participating HHAs or SNFs to patients for whom home health care or PAC services are indicated. We are proposing that for patients who are enrolled in managed care organizations, the hospital must make the patient aware that they need to verify the participation of HHAs or SNFs in their network. If the hospital has information regarding which providers participate in the managed care organization's network, it must share this information with the patient. The hospital must document in the patient's medical record that the list was presented to the patient. The patient or their caregiver/support persons must be informed of the patient's freedom to choose among providers and to have their expressed wishes respected, whenever possible. The final component of the retained provision would be the hospital's disclosure of any financial interest in the referred HHA or SNF. However, this section would be revised to include IRFs and LTCHs.

B. Home Health Agency Discharge Planning

Under the authority of sections 1861(m), 1861(o), and 1891 of the Act, the Secretary has established in regulations the requirements that a HHA must meet to participate in the Medicare program. Home health services are covered for qualifying elderly and people with disabilities who are entitled to benefits under the Hospital Insurance (Medicare Part A) and/or Supplementary Medical Insurance (Medicare Part B) programs. These services include skilled nursing care; physical, occupational, and speech therapy; medical social work; and home health aide services. Such services must be furnished by, or under arrangement with, an HHA that participates in the Medicare program and must be provided in the beneficiary's home.

On October 9, 2014, we published a proposed rule to reorganize the current CoPs for HHAs (79 FR 61163). The proposed requirements focused on the care delivered to patients by HHAs, reflected an interdisciplinary view of patient care, allowed HHAs greater flexibility in meeting quality care standards, and eliminated burdensome procedural requirements. The proposed changes were an integral part of our overall effort to achieve broad-based, measurable improvements in the quality of care furnished through the Medicare and Medicaid programs, while at the same time eliminating unnecessary procedural burdens on providers. The October 9, 2014 proposed rule included a proposal to update the discharge or transfer summary CoPs for HHAs. Specifically, we proposed to specify the content of a discharge or transfer summary, and we proposed specific timelines for sending the discharge or transfer summary information to the follow-up care providers. We proposed these changes as two separate sections located at § 484.60(e) and § 484.110(a)(6).

The IMPACT Act was signed on October 6, 2014 and requires the Secretary to publish regulations to modify CoPs and to develop interpretive guidance to require that HHAs take into account quality measures, resource use measures, and other measures to assist PAC providers, patients, and the families of patients with discharge planning, and to address the treatment preferences of patients and caregivers/support person(s) and the patient's goals of care. As part of our efforts to update the current discharge planning/discharge summary requirements for several providers, we have revised the previously proposed discharge or transfer summary requirements for HHAs in this proposed rule to incorporate the requirements of the IMPACT Act. Therefore, we are withdrawing the proposed discharge summary content requirements at § 484.60(e) that were published in the October 9, 2014 proposed rule and are proposing to add a new standard at § 484.58 for discharge planning for HHAs.

The current regulations at § 484.48 require HHAs to prepare a discharge summary that includes the patient's medical and health status at discharge, include the discharge summary in the patient's clinical record, and send the discharge summary to the attending physician upon request. We propose to update the discharge summary requirements by requiring that HHAs better prepare patients and their caregiver/support person(s) (or both) to be active participants in self-care and by implementing requirements that would improve patient transitions from one care environment to another, while maintaining continuity in the patient's plan of care. We therefore propose to add § 484.58, which would require that HHAs develop and implement an effective discharge planning process that focuses on preparing patients and caregivers/support person(s) to be active partners in post-discharge care, effective transition of the patient from HHA to post-HHA care, and the reduction of factors leading to preventable readmissions.

In this proposed rule, we further address the content and timing requirements for the discharge or transfer summary for HHAs. These proposed changes incorporate the requirements of the IMPACT Act.

We are soliciting comments on the timeline for HHA implementation of the following proposed discharge planning requirements.

1. Discharge Planning Process (Proposed § 484.58(a))

We propose to establish a new standard, ''Discharge planning process,'' to require that the HHA's discharge planning process ensure that the discharge goals, preferences, and needs of each patient are identified and result in the development of a discharge plan for each patient. In addition, we propose to require that the HHA discharge planning process require the regular re-evaluation of patients to identify changes that require modification of the discharge plan, in accordance with the provisions for updating the patient assessment at current § 484.55. The discharge plan must be updated, as needed, to reflect these changes.

We remind HHAs that they must continue to abide by federal civil rights laws, including Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and section 504 of the Rehabilitation Act of 1973, when developing a discharge planning process. To this end, HHAs should take reasonable steps to provide individuals with limited English proficiency or other communication barriers, or physical, mental, cognitive, or intellectual disabilities meaningful access to the discharge planning process, as required under Title VI of the Civil Rights Act, as implemented under 45 CFR 80.3(b)(2). Discharge planning would be of little value to patients who cannot understand or appropriately follow the discharge plans discussed in this rule. Without appropriate language assistance or auxiliary aids and services, discharge planners would not be able to fully involve the patient and caregiver/support person in the development of the discharge plan. Furthermore, the discharge planner would not be fully aware of the patient's goals for discharge.

We propose to require that the physician responsible for the home health plan of care be involved in the ongoing process of establishing the discharge plan. We believe that physicians have an important role in the discharge planning process and we would expect that the HHA would be in communication with the physician during the discharge planning process. We also propose to require that the HHA consider the availability of caregivers/support persons for each patient, and the patient's or caregiver's capacity and capability to perform required care, as part of the identification of discharge needs. Furthermore, in order to incorporate patients and their families in the discharge planning process, we propose to require that the discharge plan address the patient's goals of care and treatment preferences.

For those patients that are transferred to another HHA or who are discharged to a SNF, IRF, or LTCH, we propose to require that the HHA assist patients and their caregivers in selecting a PAC provider by using and sharing data that includes, but is not limited to HHA, SNF, IRF, or LTCH data on quality measures and data on resource use measures. We would expect that the HHA would be available to discuss and answer patient's and their caregiver's questions about their post-discharge options and needs. Furthermore, the HHA must ensure that the PAC data on quality measures and data on resource use measures are relevant and applicable to the patient's goals of care and treatment preferences.

As required by the IMPACT Act, HHAs must take into account data on quality measures and resource use measures during the discharge planning process. In order to increase patient involvement in the discharge planning process and to incorporate patient preferences, we propose that HHAs provide data on quality measures and resource use measures to the patient and caregiver that are relevant to the patient's goals of care and treatment preferences. For example, the HHA could provide the aforementioned quality data on other PAC providers that are within the patient's desired geographic area. HHAs should then assist patients as they choose a high quality PAC provider by discussing and answering patient's and their caregiver's questions about their post-discharge options and needs. We would expect that HHAs would not make decisions on PAC services on behalf of patients and their families and caregivers and instead focus on person-centered care to increase patient participation in post-discharge care decision making. Person-centered care focuses on the patient as the locus of control, supported in making their own choices and having control over their daily lives.

We propose to require that the evaluation of the patient's discharge needs and discharge plan be documented and completed on a timely basis, based on the patient's goals, preferences, and needs, so that appropriate arrangements are made prior to discharge or transfer. This requirement would prevent the patient's discharge or transfer from being unduly delayed. In response to this requirement, we would expect that HHAs would establish more specific time frames for completing the evaluation and discharge plans based on their patient's needs and taking into consideration the patient's acuity level and time spent in home health care. We propose to require that the evaluation be included in the clinical record. We propose that the results of the evaluation be discussed with the patient or patient's representative. Furthermore, all relevant patient information available to or generated by the HHA itself must be incorporated into the discharge plan to facilitate its implementation and to avoid unnecessary delays in the patient's discharge or transfer.

2. Discharge or Transfer Summary Content (Proposed § 484.58(b))

We propose at § 484.58(b) to establish a new standard, ''Discharge or transfer summary content,'' to require that the HHA send necessary medical information to the receiving facility or health care practitioner. The information must include, at the minimum, the following:

- Demographic information, including but not limited to name, sex, date of birth, race, ethnicity, and preferred language;
- Contact information for the physician responsible for the home health plan of care;
- Advance directive, if applicable;
- Course of illness/treatment;
- Procedures;
- Diagnoses;
- Laboratory tests and the results of pertinent laboratory and other diagnostic testing;
- Consultation results;
- Functional status assessment;
- Psychosocial assessment, including cognitive status;
- Social supports;
- Behavioral health issues;
- Reconciliation of all discharge medications (both prescribed and over-the-counter);
- All known allergies, including medication allergies;
- Immunizations;
- Smoking status;
- Vital signs;
- Unique device identifier(s) for a patient's implantable device(s), if any;
- Recommendations, instructions, or precautions for ongoing care, as appropriate;
- Patient's goals and treatment preferences;
- The patient's current plan of care, including goals, instructions, and the latest physician orders; and
- Any other information necessary to ensure a safe and effective transition of care that supports the post-discharge goals for the patient.

As part of the medication reconciliation process, we encourage

practitioners to consult with their state's PDMP. In section II.A.3 of this proposed rule, we discuss the potential benefits as well as the challenges associated with the use of PDMPs. Given these potential benefits and challenges, we are soliciting comments on whether, as part of the medication reconciliation process, practitioners should be required to consult with their state's PDMP to reconcile patient use of controlled substances as documented by the PDMP, even if the practitioner is not going to prescribe a controlled substance.

We propose to include these elements in the discharge plan so that there is a clear and comprehensive summary for effective and efficient follow-up care planning and implementation as the patient transitions from HHA services to another appropriate health care setting.

We note that many of the aforementioned proposed medical information elements required to be sent to the receiving facility or health care practitioner may not be applicable to the patient. Therefore, we would expect HHAs to include this information with a ''N/A'' or other appropriate notation next to each data element that does not apply to the patient. We are soliciting comments on these proposed medical information requirements.

C. Critical Access Hospital Discharge Planning

Sections 1820(e) and 1861 (mm) of the Act provide that critical access hospitals participating in Medicare and Medicaid meet certain specified requirements. We have implemented these provisions in 42 CFR part 485, subpart F, Conditions of Participation for CAHs.

Currently, there is no CAH discharge planning CoP. When CMS established requirements for the Essential Access Community Hospital (EACH) and Rural Primary Care Hospital (RPCH) providers that participated in the seven-state demonstration program in 1993, a discharge planning CoP was not developed then. Minimally, what was required under the former EACH/RPCH program was adopted for the new CAH program (see 62 FR 45966 through 46008, August 29, 1997). Currently the CoPs at § 485.631(c)(2)(ii) provide that a CAH must arrange for, or refer patients to, needed services that cannot be furnished at the CAH. CAHs are to ensure that adequate patient health records are maintained and transferred as required when patients are referred.

As previously noted, we recognize that there is significant benefit in improving the transfer and discharge requirements from an inpatient acute care facility, such as CAHs and hospitals, to another care environment. We believe that our proposed revisions would reduce the incidence of preventable and costly readmissions, which are often due to avoidable adverse events. In addition, under the IMPACT Act, CAHs must take into account quality measures, resource use measures, and other measures to assist PAC providers, patients, and the families of patients with discharge planning, also in light of the treatment preferences of patients and the patient's goals of care. Given these concerns and the IMPACT Act mandate, we are proposing new CAH discharge planning requirements. We are soliciting comments on the timeline for implementation of the following proposed CAH discharge planning requirements.

As discussed at length in section II.A. for hospitals, we maintain that discharge planning is an important component of successful transitions from the CAH setting. Due to the availability of fewer health care resources in a rural environment, it is important to keep CAH patients on the path to recovery by ensuring that the CAH effectively communicates the discharge plan to the patient and those who will be providing support to the patient post-discharge. It is important that patients discharged to home from CAHs have the necessary support and access to the appropriate resources to assist them with recovery.

While we propose that CAHs must take into consideration the patient's preferences and goals of care during the discharge planning process, as we describe in this proposed rule, we also acknowledge that patients located in rural areas that are discharged from CAHs may have limited post-acute care options.

Facilities that offer the most appropriate post-discharge care for a particular patient's recovery needs may be located outside of the patient's community. We therefore would expect CAHs to support patients as they choose an appropriate PAC setting that meets their preferences and goals of care, while informing the patient of the benefits of selecting the most appropriate setting for their post-discharge needs, even if the facility is outside of the patient's desired location.

Consistent communication between health care providers in all patient care settings would assist in better patient placement. However, this level of communication has not been consistently achieved among the numerous healthcare providers within communities across the country. Therefore, we believe that it is vital that rural providers collaborate with each other to optimize the use of post-discharge providers in rural areas.

We propose to develop requirements in the form of five standards at § 485.642. We would require that all inpatients and certain categories of outpatients be evaluated for their discharge needs and that the CAH develop a discharge plan. We also propose to require that the CAH provide specific discharge instructions, as appropriate, for all patients.

We propose that each CAH's discharge planning process must ensure that the discharge needs of each patient are identified and must result in the development of an appropriate discharge plan for each patient.

We remind CAHs that they must continue to abide by federal civil rights laws, including Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and section 504 of the Rehabilitation Act of 1973, when developing a discharge planning process. To this end, CAHs should take reasonable steps to provide individuals with limited English proficiency or physical, mental, cognitive, and intellectual disabilities meaningful access to the discharge planning process, as required under Title VI of the Civil Rights Act, as implemented at 45 CFR § 80.3(b)(2). Discharge planning would be of little value to patients who cannot understand or appropriately follow the discharge plans discussed in this rule. Without appropriate language assistance or auxiliary aids and services, discharge planners would not be able to fully involve the patient and caregiver/support person in the development of the discharge plan. Furthermore, the discharge planner would not be fully aware of the patient's goals for discharge.

Additionally, effective discharge planning will assist CAHs in accordance with the U.S. Supreme Court's holding in *Olmstead vs. L.C.,* which found that the unjustified segregation of people with disabilities is a form of unlawful discrimination under the ADA. We note that effective discharge planning may assist CAHs in ensuring that individuals being discharged, who would otherwise be entitled to institutional services, have access to community based services when: (a) such placement is appropriate; (b) the affected person does not oppose such treatment; and (c) the placement can be reasonably accommodated.

1. Design (Proposed § 485.642(a))

We propose at § 485.642(a) to establish a new standard, ''Design,'' to require a CAH to have policies and

procedures that are developed with input from the CAH's professional healthcare staff, nursing leadership as well as other relevant departments. The policies and procedures must be approved by the governing body or responsible individual and be specified in writing (see proposed § 482.43).

2. Applicability (Proposed § 485.642(b))

We propose at § 485.642(b) to establish a new standard, ''Applicability'', to require the CAH's discharge planning process to identify the discharge needs of each patient and to develop an appropriate discharge plan. We note that, in accordance with section 1814(a)(8) of the Act and § 424.15, physicians must certify that the individual may reasonably be expected to be discharged or transferred to a hospital within 96 hours after admission to the CAH. We propose to require that the discharge planning process must apply to all inpatients, observation patients, patients undergoing surgery or same-day procedures where anesthesia or moderate sedation was used, emergency department patients identified as needing a discharge plan, and any other category of patients as recommended by the professional healthcare staff and approved by the governing body or responsible individual.

3. Discharge Planning Process (Proposed § 485.642(c))

We propose at § 485.642(c), ''Discharge planning process,'' to require that CAHs implement a discharge planning process to begin identifying the anticipated post-discharge goals, preferences, and discharge needs of the patient and begin to develop an appropriate discharge plan for the patients identified in proposed § 485.642(b). We propose at § 485.642(c)(1) to require that a registered nurse, social worker, or other personnel qualified in accordance with the CAH's discharge planning policies must coordinate the discharge needs evaluation and development of the discharge plan. We also propose at § 485.642(c)(2) to require that the discharge planning process begin within 24 hours after admission or registration for each applicable patient identified under the proposed requirement at § 485.642(b), and is completed prior to discharge home or transfer to another facility, without unduly delaying the patient's discharge or transfer. If the patient's stay was less than 24 hours, the discharge needs would be identified prior to the patient's discharge home or transfer to another facility and without unnecessarily delaying the patient's discharge or transfer. We note that this policy does not pertain to emergency-level transfers for patients who require a higher level of care. However, while an emergency-level transfer would not need a discharge evaluation and plan, we would expect that the CAH would send necessary and pertinent information with the patient that is being transferred to another facility.

We propose at § 485.642(c)(3) that the CAH's discharge planning process must require regular reevaluation of patients to identify changes that require modification of the discharge plan. The discharge plan must be updated, as needed to reflect these changes. We propose at § 485.642(c)(4) that the practitioner responsible for the care of the patient must be involved in the ongoing process of establishing the discharge plan.

We propose at § 485.642(c)(5) that the CAH would be required to consider caregiver/support person availability and community based care, and the patient's or caregiver's/support person's capability to perform required care including self-care, follow-up care from a community based provider, care from a support person(s), care from and being discharged back to community-based health care providers and suppliers, or, in the case of a patient admitted from a long term care or other residential facility, care in that setting, as part of the identification of discharge needs. We also propose to require that CAHs must consider the availability of and access to non-health care services for patients, which may include home and physical environment modifications, transportation services, meal services, or household services, including housing for homeless patients. In addition, we encourage CAHs to consider the availability of supportive housing, as an alternative to homeless shelters that can facilitate continuity of care for patients in need of housing.

As part of the on-going discharge planning process, we propose in § 485.642(c)(5) that CAHs would need to identify areas where the patient or caregiver/support person(s) would need assistance and address those needs in the discharge plan. CAHs must consider the following in evaluating a patient's discharge needs including but not limited to:

- Admitting diagnosis or reason for registration;
- Relevant co-morbidities and past medical and surgical history;
- Anticipated ongoing care needs post-discharge;
- Readmission risk;
- Relevant psychosocial history;
- Communication needs, including language barriers, diminished eyesight and hearing, and self-reported literacy of the patient, patient's representative or caregiver/support person(s), as applicable;
- Patient's access to non-health care services; and community-based care providers; and
- Patient's goals and preferences.

We refer readers to Section II. A. 3 for a more detailed explanation of our expectations for this requirement and for additional resources.

During the evaluation of a patient's relevant co-morbidities and past medical and surgical history, we encourage practitioners to consult with their state's PDMP. In section II.A.3 of this proposed rule, we discuss the potential benefits as well as the challenges associated with the use of PDMPs. Given these potential benefits and challenges, we are soliciting comments on whether practitioners should be required to consult with their state's PDMP and review a patient's risk of non-medical use of controlled substances and substance use disorders as indicated by the PDMP report.

We propose at § 485.642 (c)(6) that the patient and caregiver/support person(s) would be involved in the development of the discharge plan, and informed of the final plan to prepare them for their post-CAH care.

We propose at § 485.642 (c)(7) to require that the patient's discharge plan address the patient's goals of care and treatment preferences. During the discharge planning process, we would expect that the appropriate staff would discuss the patient's post-acute care goals and treatment preferences with the patient, the patient's family or the caregiver (or both) and subsequently document these goals and preferences in the discharge plan. These goals and treatment preferences should be taken into account throughout the entire discharge planning process.

We propose at § 485.642(c)(8) to require that CAHs assist patients, their families, or their caregiver's/support persons in selecting a PAC provider by using and sharing data that includes, but is not limited to, HHA, SNF, IRF, or LTCH, data on quality measures and data on resource use measures. We would expect that the CAH would be available to discuss and answer patients and their caregiver's questions about their post-discharge options and needs. We would also expect the CAH to document in the medical record that the quality measures and resource use measures were shared with the patient and used to assist the patient during the discharge planning process.

Furthermore, the CAH would have to ensure that the PAC data on quality measures and data on resource use measures is relevant and applicable to the patient's goals of care and treatment preferences.

As required by the IMPACT Act, CAHs would have to take into account data on quality measures and data on resource use measures during the discharge planning process. In order to increase patient involvement in the discharge planning process and to emphasize patient preferences throughout the patient's course of treatment, CAHs should tailor the data on PAC provider quality measures and resource use measures to the patient's goals of care and treatment preferences. For example, the CAH could provide the aforementioned quality data on PAC providers that are within the patient's desired geographic area. In another instance, CAHs could provide quality data on HHAs based on the patient's preference to continue their care upon discharge to home. CAHs should assist patients as they choose a high quality PAC provider. However, we would expect that CAHs would not make decisions on PAC services on behalf of patients and their families and caregivers and instead focus on person-centered care to increase patient participation in post-discharge care decision making. Person-centered care focuses on the patient as the locus of control, supported in making their own choices and having control over their daily lives.

We propose at § 485.642(c)(9) to require that the evaluation of the patient's discharge needs and discharge plan would have to be documented and completed on a timely basis, based on the patient's goals, preferences, strengths, and needs. This will ensure that appropriate arrangements for post-CAH care are made before discharge. We believe that the CAH would establish more specific time frames for completing the evaluation and discharge plans based on the needs of their patients and their own operations. We propose to require that the evaluation be included in the medical record. The results of the evaluation must be discussed with the patient or patient's representative. All relevant patient information would have to be incorporated into the discharge plan to facilitate its implementation and to avoid unnecessary delays in the patient's discharge or transfer.

We also propose at § 485.642(c)(10) to require that the CAH assess its discharge planning process in accordance with the existing requirements at § 485.635(a)(4). The assessment must include ongoing, periodic review of a representative sample of discharge plans, including those patients who were readmitted within 30 days of a previous admission to ensure that they are responsive to patient discharge needs.

4. Discharge to Home (Proposed § 485.642(d)(1) through (3))

We propose at § 485.642(d)(1) to establish a new standard, ''Discharge to home'', to require that discharge instructions be provided at the time of discharge to the patient, or the patient's caregiver/support person (or both). Also, if the patient is referred to a PAC provider or supplier, the discharge instructions must be provided to the PAC provider/supplier. Instruction on post-discharge care must include, but are not limited to, instruction on post-discharge care to be used by the patient or the caregiver/support person(s) in the patient's home, as identified in the discharge plan. We also propose at § 485.642(d)(2) to require that the instructions must include:

- Instruction on post-discharge care to be used by the patient or the caregiver/support person(s) in the patient's home, as identified in the discharge plan;
- Written information on warning signs and symptoms that may indicate the need to seek immediate medical attention;
- Prescriptions for medications that are required after discharge, including the name, indication, and dosage of each drug along with any significant risks and side effects of each drug as appropriate to the patient;
- Reconciliation of all discharge medications with the patient's pre-hospital admission/registration medications (both prescribed and over-the counter); and
- Written instructions regarding the patient's follow-up care, appointments, pending or planned diagnostic tests (or both), and pertinent contact information, including telephone numbers for practitioners involved in follow-up care.

As part of the medication reconciliation process, we encourage practitioners to consult with their state's PDMP. In section II.A.3 of this proposed rule, we discuss the potential benefits as well as the challenges associated with the use of PDMPs. Given these potential benefits and challenges, we are soliciting comments on whether, as part of the medication reconciliation process, practitioners should be required to consult with their state's PDMP to reconcile patient use of controlled substances as documented by the PDMP, even if the practitioner is not going to prescribe a controlled substance.

In addition to the patient receiving discharge instructions, it is important that the providers responsible for follow-up care with a patient (including the PCP or other practitioner) receive the necessary medical information to support continuity of care. We therefore propose at § 485.642(d)(3) to require that the CAH send the following information to the practitioner(s) responsible for follow up care, if the practitioner is known to the hospital and has been clearly identified:

- A copy of the discharge instructions and the discharge summary within 48 hours of the patient's discharge;
- Pending test results within 24 hours of their availability;
- All other necessary information as specified in proposed § 485.642(e)(2).

We remind CAHs to provide this information in a manner that complies with all applicable privacy and security regulations. We would expect that discharge instructions would be carefully designed and written in plain language and designed to be easily understood by the patient or the patient's caregiver/support person (or both). In addition, as a best practice, CAHs should confirm patient or the patient's caregiver/support person (or both) understanding of the discharge instructions. We recommend that CAHs consider the use of ''teach-back'' during discharge planning and upon providing discharge instructions to the patient. We refer readers to Section II. A. 3 for more resources on the ''teach-back'' method.

We propose at § 485.642(d)(4) to require CAHs to establish a post-discharge follow-up process. We believe that post-discharge follow-up can help ensure that patients comprehend and adhere to their discharge instruction and medication regimens and improve patient safety and satisfaction. We are proposing that CAHs have the flexibility to determine the appropriate time and mechanism of the follow up process to meet the needs of their patients. However, we note the importance of ensuring that CAHs follow-up, post-discharge, with their most vulnerable patients, including those with behavioral health conditions.

5. Transfer of Patients to Another Health Care Facility (Proposed § 485.642(e))

When a patient is transferred to another facility, that is another CAH, hospital, or a PAC provider, we propose at § 485.642(e) to require that the CAH send necessary medical information to the receiving facility at the time of transfer. The necessary medical information must include:

- Demographic information, including but not limited to name, sex, date of birth, race, ethnicity, and preferred language;
- Contact information for the practitioner responsible for the care of the patient as described at paragraph (b)(4) of this section and the patient's caregiver/support person(s);
- Advance directive, if applicable;
- Course of illness/treatment;
- Procedures;
- Diagnoses;
- Laboratory tests and the results of pertinent laboratory and other diagnostic testing;
- Consultation results;
- Functional status assessment;
- Psychosocial assessment, including cognitive status;
- Social supports;
- Behavioral health issues;
- Reconciliation of all discharge medications with the patient's pre-hospital admission/registration medications (both prescribed and over-the-counter);
- All known allergies; including medication allergies;
- Immunizations;
- Smoking status;
- Vital signs;
- Unique device identifier(s) for a patient's implantable device (s), if any;
- All special instructions or precautions for ongoing care; as appropriate;
- Patient's goals and treatment preferences; and
- Any other necessary information including a copy of the patient's discharge instructions, the discharge summary, and any other documentation as applicable, to ensure a safe and effective transition of care that supports the post-discharge goals for the patients.

We have discussed the rationale for these provisions in our discussion of the hospital provisions in section II.A. We are soliciting comments on these proposed medical information requirements.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), we are required to provide 60-days notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for the following sections of this document that contain information collection requirements (ICRs):

A. ICRs Regarding Hospital Discharge Planning (§ 482.43)

Proposed § 482.43(b) would require that the discharge process applies to all inpatients and to all outpatients identified at § 482.43(b)(2) through (5). The current hospital CoPs at § 482.43(a) require hospitals to have a discharge planning process for patients that have been identified as likely to suffer adverse health consequences upon discharge if there is no adequate discharge planning and for patients who have discharge planning requested by themselves, someone else who is acting on their behalf, or their physician for actual discharge planning. Thus, since hospitals would shift from evaluating patients for potential discharge planning to actually providing a discharge plan for the vast majority of patients, hospitals would have to revise their policies and procedures to comply with the proposed requirements in this section.

It should be noted here that the proposed requirements at § 482.43(c)(8) and § 482.43(c)(9) (and all similar proposed requirements set out at proposed§ 485.642(c)(8) and (9) for CAHs and § 484.58(a)(6) and (7) for HHAs), which correspond to the requirements of the IMPACT Act, are exempted from the application of the PRA pursuant to section 1899B(m). Therefore, we are not required to estimate the public reporting burden for information collection requirements for these specific elements of the proposed rule in accordance with chapter 35 of title 44, United States Code. Nor are we required to undergo the specific public notice requirements of the PRA. Therefore, the estimates we provide in the Regulatory Impact Analysis (RIA) section of this proposed rule are essentially identical to those we would estimate under the PRA with respect to the elements set out in section 1899B of the Act. The public comment period on the proposed rule will give those affected an equivalent opportunity with the greater procedural benefits of the Administrative Procedure Act and Executive Order 12866. The exemption created by the IMPACT Act does not exempt the entirety of this proposed rule from PRA analysis. We further note that these proposed rules deal with the transmission of data on quality measures and data on resource use measures to patients that, are provided by the government to health care providers, not with the costs associated with its preparation. This rule does not deal with those costs.

Proposed § 482.43(d) would require hospitals to provide to all patients discharged to home, with or without a referral to a community-based service provider, discharge instructions that must include, at a minimum, those items identified in § 482.43(d)(2)(i) through (v). The current hospital CoPs do not contain any requirements for written discharge instructions under that heading. However, there are requirements for hospitals to provide certain information to patients. There is a requirement that ''the patient and family members or interested persons must be counseled to prepare them for post-hospital care'' (§ 482.43(c)(5)). When a hospital transfers or refers a patient, they must send the necessary medical information to the appropriate facility or outpatient service, as needed, for follow-up or ancillary care (§ 482.43(d)). When appropriate, there are requirements to provide lists of available providers, such as home health providers, to patients (§ 482.43(c)(6)). Thus, hospitals are already providing counseling to patients, their families, or other interested parties and are providing certain written information.

Whenever a patient is discharged or transferred to another facility, proposed § 482.43(e) would require hospitals to send necessary medical information to the receiving facility at the time of transfer. The necessary information that the hospital must send to the receiving facility includes all the items listed at proposed § 482.43(e)(2)(i) through (viii). The current hospital CoPs already require hospitals to send along with any patient that is transferred or referred to another facility the necessary medical information for the patient's follow-up or ancillary care to the appropriate facility (§ 482.43(d)). Overall, we believe that almost all of the proposed changes for hospitals constitute a clarification and restatement of the current requirements along with their interpretive guidelines, or simply state as requirements practices that most hospitals already follow for most patients. For example, we believe that

medication reconciliation is a near universal practice for inpatients. Thus, we believe that hospitals are already following most of these proposed requirements and therefore we will not be assessing any additional burden for this section beyond our estimates of the one-time cost to hospitals to modify their policies and procedures in order to ensure that they are meeting the requirements of this proposed rule. There are, however, some proposed requirements that expand beyond current practice, or that fewer hospitals currently follow. These proposed requirements included:

- Discharge plans for certain categories of outpatients, including, but not limited to patients receiving observation services, patients who are undergoing surgery or other same-day procedures where anesthesia or moderate sedation is used, emergency department patients who have been identified by a practitioner as needing a discharge plan, and any other category of outpatient as recommended by the medical staff, approved by the governing body and specified in the hospital's discharge planning policies and procedures; and
- The practitioner responsible for the care of the patient must be involved in the ongoing process of establishing the patient's goals of care and treatment preferences that inform the discharge plan, just as they are with other aspects of patient care during the hospitalization or outpatient visit.

In the estimates that follow in this section of the preamble and in the RIA, we estimate hourly costs. Using data from the Bureau of Labor Statistics, we have estimates of the national average hourly wage for all medical professions (for an explanation of these data see *http://www.bls.gov/news.release/archives/ocwage_03252015.htm*). These data do not include the employer share of fringe benefits such as health insurance and retirement plans, the employer share of OASDI taxes, or the overhead costs to employers for rent, utilities, electronic equipment, furniture, human resources staff, and other expenses that are incurred for employment. The HHS-wide practice is to account for all such costs by adding 100 percent to the hourly cost rate, doubling it for purposes of estimating the costs of regulations.

With respect to the one-time costs of reviewing the newly stated requirements and of reviewing and in some cases modifying existing procedures to come into compliance, we estimate that this would require a physician, a registered nurse, and an administrator using the average hourly salaries as estimated in this proposed rule. We estimate that each person would spend 8 hours on this activity for a total of 24 hours per hospital at a cost of $3,424 ((8 hours × $67 for a registered nurse's hourly salary) + (8 hours × $174 for hospital CEO/administrator's hourly salary) + (8 hours × $187 for a physician's hourly salary)). The total burden hours are 117,600 (24 hours × 4,900 hospitals). For all hospitals to comply with this requirement, we estimate a total one-time cost of approximately $17 million (4,900 hospitals × $3,424). These time estimates are based on our best estimates of the time needed, on average, to review the final rule, compare its provisions with current practice at the hospital, and determine what changes would be needed and what instructions would need to be issued. For some hospitals, less time would be needed, and for some hospitals more, depending on current practices. These estimates are based on the judgments of CMS staff involved in the Survey and Certification process. We are unaware of any ''time and motion'' or similar studies that would provide a quantitative and reliable source for such estimates. We welcome comments and data that would help us improve the estimates.

For the requirements that exceed current practice or that are not universally followed, we use the following cost assumptions, based on the following hourly salaries: physician at $187; registered nurse at $67; Advanced Practice Registered Nurse (APRN) at $94; Physicians Assistant (PA) at $94; and healthcare social worker at $52. We would expect a registered nurse and healthcare social worker to carry out the duties of evaluating and planning for a patient's discharge while we would expect a physician, APRN, or PA to fulfill the practitioner involvement in the discharge plan requirement.

For the estimated cost of hospitals to provide additional discharge plans for the proposed new categories of outpatients, we started with the most recent data from the CDC on hospital outpatient and emergency department (ED) visits that showed approximately 126 million visits and 118 million visits (not including the 18.3 million emergency department visits that resulted in inpatient admissions), respectively, in 2011 (*http://www.cdc.gov/nchs/fastats/hospital.htm*). We believe that only 5 percent of hospital outpatient visits, or approximately 6 million visits, and 5 percent of ED visits, or approximately 6 million visits, would need a discharge plan. We base this belief on our experience with hospitals that shows that most outpatient visits, similar to a physician's office visit, do not need a discharge plan of any type and that most ED visits already receive some type of discharge plan.

Also according to the CDC, of the 34.7 million ambulatory surgery visits in 2006, 19.9 million occurred in hospitals (*http://www.cdc.gov/nchs/data/nhsr/nhsr011.pdf*). For the purposes of this analysis, we believe that approximately 95 percent of patients who undergo hospital ambulatory surgeries would already receive discharge plans and are thus not included in our cost estimates. Therefore, we believe that 5 percent, or 1 million, of these patients do not currently receive discharge plans and are included in our cost estimates here.

We also have reason to believe that approximately 2 million outpatients receive observation care annually (*http://khn.org/news/observation-care-faq/)* and that all but 5 percent, or 100,000 outpatients, currently receive a discharge plan. This would then bring our estimate of additional discharge plans annually to approximately 13 million patients.

Using the number of 13 million outpatients, we estimate the amount of time that these discharge plans would take hospitals to develop and provide, including the cost of the additional proposed requirements previously noted in this proposed rule, that is, practitioner involvement in the development of the discharge plan. We believe that these additional requirements are already being performed for inpatients discharged, so we have not estimated any additional cost for these patients.

We believe that hospital APRNs and PAs would spend equal time as physicians, RNs, and healthcare social workers on discharge planning (5 minutes or 0.083 hours) on an equal number of outpatients. We averaged the salaries ($94 + $94 + $187 + $67 + $52)/5 = $99 per hour)). Thus, we estimate that complying with the proposed requirements of new outpatient discharge plans and practitioner involvement in those plans would cost approximately $107 million annually (13 million patients × 0.083 hours × $99 average hourly wage for APRNs, PAs, MDs/Doctors of Osteopathic Medicine (DOs), RNs, and healthcare social workers).

These estimates are based on the judgment of CMS staff as well as our experience with hospitals, both as CMS staff and as active hospital staff members. We welcome data and comments on these estimates.

B. ICRs Regarding Home Health Discharge Planning (§ 484.58)

We propose a new CoP at § 484.58 that would require HHAs to develop and implement an effective discharge planning process that focuses on preparing patients to be active partners in post-discharge care, effective transition of the patient from HHA to post-HHA care, and the reduction of factors leading to preventable readmissions.

We propose to establish a new standard at § 484.58(a), ''Discharge planning process,'' to require that the HHA's discharge planning process ensure that the discharge needs of each patient are identified and result in the development of a discharge plan for each patient. In addition, we propose to require that the HHA discharge planning process require the regular re-evaluation of patients to identify changes that require modification of the discharge plan. The discharge plan must be updated, as needed, to reflect these changes.

We propose to require that the physician responsible for the home health plan of care be involved in the ongoing process of establishing the discharge plan. We would expect that the HHA would be in communication with the physician during the discharge planning process. We also propose to require that as part of identifying the patient's discharge needs, the HHA consider the availability of caregivers/support persons for each patient whether through self-care, care from a support person(s), care from community-based health care providers and agencies, or care from a long-term care facility or other residential facility as part of the identification of discharge needs. The proposed requirement would also require the HHA to consider the patient's or caregiver's capacity and capability to provide the necessary care. Furthermore, in order to incorporate patients and their families in the discharge planning process, we propose to require that the discharge plan address the patient's goals of care and treatment preferences.

We propose to require that the evaluation of the patient's discharge needs and discharge plan must be documented, completed on a timely basis and be based on the patient's needs to ensure that the patient's discharge or transfer is not unduly delayed. We believe that HHAs would establish more specific time frames for completing the evaluation and discharge plans based on the needs of their patients and their own operations. We propose to require that the evaluation be included in the medical record. We propose that the results of the evaluation be discussed with the patient or patient's representative. Furthermore, all relevant patient information available to or generated by the HHA itself must be incorporated into the discharge plan to facilitate its implementation and to avoid unnecessary delays in the patient's discharge or transfer.

We base our HHA burden cost estimates on those discussed previously in this proposed rule for hospitals and CAHs with the relevant modifications for HHAs. First, HHAs would need to review their current policies and procedures and update them so that they comply with the requirements in proposed § 484.58(a). This would be a one-time burden on the HHA. We estimate that this would require a physician, a registered nurse, and an administrator using the average hourly salaries as estimated in this proposed rule. Note that we are estimating a lower average hourly salary for an HHA administrator than that previously estimated for a hospital CEO/administrator. We estimate that each person would spend 8 hours on this activity for a total of 24 hours per HHA at a cost of $2,816 ((8 hours × $67 for a RN's hourly salary) + (8 hours × $98 for an administrator's hourly salary) + (8 hours × $187 for a physician's hourly salary)). For all HHAs to comply with this requirement, we estimate a total one-time cost of approximately $34 million (11,930 HHAs × $2,816).

Furthermore, we believe that for a HHA to comply with the proposed provisions for this new standard the combined services of a physician, a registered nurse, and a social worker would be required. We use the following average hourly costs for a physician, a registered nurse, and a social worker respectively: $187, $67, and $52. We will also estimate the annual burden cost by analyzing the two new proposed standards as a combined burden in this proposed rule.

We propose at § 484.58(b) to establish another new standard, ''Discharge or transfer summary content,'' to require that the HHA send necessary medical information to the receiving facility or practitioner. The information must include:

- Demographic information, including but not limited to name, sex, date of birth, race, ethnicity, preferred language;
- Contact information for the physician responsible for the home ehealth plan of care;
- Advance directive, if applicable;
- Course of illness/treatment;
- Procedures;
- Diagnoses;
- Laboratory tests and the results of pertinent laboratory and other diagnostic testing;
- Consultation results;
- Functional status assessment;
- Psychosocial assessment, including cognitive status;
- Social supports;
- Behavioral health issues;
- Reconciliaton of all discharge medications (both prescribed and over-the counter);
- All known allergies, including medication allergies;
- Immunizations;
- Smoking status;
- Vital signs;
- Unique device identifier(s) for a patient's implantable device(s), if any;
- Recommendations, instructions, or precautions for ongoing care, as appropriate;
- Patient's goals of care and treatment preferences;
- The patient's current plan of care, including goals, instructions, and the latest physician orders; and
- Any other information necessary to ensure a safe and effective transition of care that supports the post-discharge goals for the patient.

We propose to include these elements in the discharge plan to provide the clear and comprehensive summary that is necessary for effective and efficient follow-up care planning and implementation as the patient transitions from HHA services to another appropriate health care setting.

To meet these two new proposed standards, it would take an HHA approximately 10 minutes (0.17 hours) per patient. Of that 10 minutes, 2 minutes (0.033 hours) would be covered by the physician, 3 minutes (0.05 hours) by the social worker, and the remaining 5 minutes (0.083 hours) by the RN. Thus, for the 11,930 HHAs, we estimate that complying with this requirement would require 594,000 burden hours (18 million patients × 0.033 hours) for physicians at an approximate cost of $111 million (594,000 burden hours × $187 average hourly salary); 900,000 burden hours (18 million patients × 0.05 hours) for social workers at an approximate cost of $47 million (900,000 burden hours × $52); and 1.5 million burden hours (18 million patients × 0.083 hours) for RNs at an approximate cost of $101 million (1.5 million burden hours × $67). The total annual cost for all HHAs would be approximately $259 million or $21,710 per HHA ($259,000,000/11,930 HHAs).

We also estimate that a HHA would spend 2.5 minutes per patient sending

the discharge summary to the patient's next source of healthcare services, for a total of 62 hours per average HHA annually ((2.5 minutes per patient × 1,488 patients)/60 minutes per hour) at a cost of $1,984 for an office employee to send the required documentation ($32 per hour × 62 hours). Complying with this provision would require an estimated 739,660 hours (62 hours per HHA × 11,930 HHAs) and $24 million ($1,984 per HHA × 11,930 HHAs) for all HHAs annually.

Thus, we estimate compliance with this new CoP would cost HHAs a one-time cost of $34 million and approximately $283 million annually.

As previously indicated, these estimates are based on estimates for hospitals and CAHs with the relevant modifications for HHAs. We welcome data and comments on these estimates.

C. ICRs Regarding Critical Access Hospital Discharge Planning (§ 485.642)

Currently, the CoPs at § 485.631(c)(2)(ii) provide that a CAH must arrange for, or refer patients to, needed services that cannot be furnished at the CAH. CAHs are to ensure that adequate patient health records are maintained and transferred as required when patients are referred.

As previously noted, we recognize that there is significant benefit in improving the transfer and discharge requirements from an inpatient acute care facility, such as CAHs and hospitals, to another care environment. We believe that our proposed revisions would reduce the incidence of preventable and costly readmissions, which are often due to avoidable adverse events. In addition, the IMPACT Act requires that hospitals and CAHs take into account quality, resource use data, and other data to assist PAC providers, patients, and the families of patients with discharge planning, while also addressing the treatment preferences of patients and the patient's goals of care. In light of these concerns and the requirements of the IMPACT Act, we are proposing new CAH discharge planning requirements.

We propose to develop requirements in the form of new CoPs with five standards at § 485.642. We would require that all patients be evaluated for their discharge needs and that the CAH develop a discharge plan. We also propose to require that the CAH provide specific discharge instructions, as appropriate, for all patients.

We also propose that each CAH's discharge planning process must ensure that the discharge needs of each patient are identified and must result in the development of an appropriate discharge plan for each patient. The current CAH CoP at § 485.635(d)(4) requires the CAH to develop a nursing care plan for each inpatient. The Interpretive Guidelines for § 485.635(d)(4) state that the plan includes planning the patient's care while in the CAH as well as planning for transfer to a hospital or a PAC facility or for discharge. Because the proposed CAH discharge planning requirements mirror those proposed for hospitals, we believe that CAHs, like hospitals, are essentially already performing many of the proposed requirements and estimate the burden to be minimal. We are assessing burden only for those areas that we believe that CAHs are not already doing under the current requirements of the nursing care plan at § 485.635(d)(4).

For proposed § 485.642(b), CAHs would need to shift from evaluating patients for potential discharge planning to actually doing discharge planning for the vast majority of patients. CAHs would have to revise their policies and procedures to comply with the proposed requirements in this section. First, CAHs would need to review their current policies and procedures and update them so that they comply with the requirements in proposed § 485.642 (b). This would be a one-time burden on the CAH. We estimate that this would require a physician, a registered nurse, and an administrator using the average hourly salaries as estimated in this proposed rule. Note that we are estimating a lower average hourly salary for a CAH administrator than that previously estimated for a hospital CEO/administrator. We estimate that each person would spend 16 hours on this activity for a total of 48 hours per CAH at a cost of $5,632 ((16 hours × $67 for a registered nurse's hourly salary) + (16 hours × $98 for an administrator's hourly salary) + (16 hours × $187 for a physician's hourly salary)). For all CAHs to comply with this requirement, we estimate a total one-time cost of approximately $7.5 million (1,328 CAHs × $5,632).

Similar to the proposed hospital requirements at § 482.43(c), proposed § 485.642(c) would require the CAH to implement a discharge planning process that identifies, within 24 hours after admission or registration in the CAH, the anticipated discharge needs for the patients identified under the proposed requirement at § 485.642(b), along with several provisions supporting the requirement proposed here.

Proposed § 485.642(c) would require that the CAH's discharge planning process promote early identification of the anticipated discharge needs of each patient, and development of an appropriate discharge plan for each patient for whom a discharge plan is applicable in accordance with proposed § 485.642(b). The identification of the patient's needs and the development of the discharge plan must comply with all of the requirements in § 485.642(c)(1) through (9). Proposed § 485.642(c)(4) specifically would require that ''The licensed practitioner responsible for the care of the patient must be involved in the ongoing process of establishing the discharge plan.'' The current CAH CoPs do not contain any similar requirement.

The burden associated with the requirement that a practitioner responsible for the patient's care be involved with the patient's discharge would include the time needed for a practitioner to assist in establishing the discharge plan. We believe that practitioner involvement in the establishing of the discharge plan would constitute a usual and customary business practice as defined in the implementing regulations of the PRA at 5 CFR 320.3(b)(2) and that CAHs are already doing this. The majority of CAHs that are deemed for participation in Medicare are accredited by The Joint Commission, which requires a CAH to have ''the patient, the patient's family, *licensed independent practitioners, physicians, clinical psychologists, and staff involved in the patient's care, treatment, and services* [emphasis added] participate in planning the patient's discharge or transfer.'' Such practitioner involvement (where indicated and where feasible) is in our view an essential part of patient care and one that we expect CAH staff carefully follow wherever possible. Therefore, we will not be assessing any burden for this activity.

We believe that practitioners already are communicating with the staff that are caring for their patients and that the practitioner's involvement in the establishment of the discharge plan would occur during those usual interactions with the staff. We also expect that practitioners would review the discharge plan in conjunction with their review of the patient's CAH medical record. The practitioner would write the order to discharge the patient, as well as any prescriptions for medications and other orders for the patient. However, the proposed requirement envisions a more direct involvement in the ongoing process of establishing a discharge plan. Thus, we believe that practitioners would spend more time discussing the discharge plan with nurses and other CAH personnel.

The additional time the practitioner would be required to spend on

discharge planning would vary greatly in accordance with the patient's need for care, treatment, and services after he or she was discharged from the CAH. Practitioners must already be involved in many circumstances because they must order or authorize certain post-discharge care. In addition, there is no need for a practitioner to spend additional time on discharge planning for patients who only require prescriptions for medications and an order to follow-up with their primary care provider or those who pass away while hospitalized. We use the following average hourly costs for a physician, an advanced practice registered nurse, and a physician assistant respectively: $187, $94, and $94. We believe that CAH APRNs and PAs would spend more time than physicians on discharge planning (5 minutes versus 2 minutes or 0.083 hours versus 0.033 hours). We estimate these practitioners would spend more time (approximately 0.083 hours per patient) on discharge planning for approximately 20 percent of CAH patients or approximately 120,000 patients. We estimate physicians would spend approximately 0.033 burden hours on 5 percent of CAH patients or approximately 30,000 patients. Thus, we estimate that complying with the requirements in this section would cost $1.1 million annually ((120,000 patients × 0.083 hours × $94 average hourly wage for APRNs and PAs) + (30,000 patients × 0.033 hours × $187 average hourly wage for physicians)).

For proposed § 485.642(d), CAHs would be required to provide to all patients discharged to home, with or without a referral to a community-based service provider, discharge instructions that must include, at a minimum, those items identified in § 485.642(d)(2)(i) through (v). The current CAH CoPs do not contain any requirements for written discharge instructions.

The burden from the requirement to include discharge instructions in the discharge plan and document those instructions is the resources needed to develop the discharge plan and instructions. Based on our experience with the 1,328 CAHs, we believe they are already doing some form of discharge planning and providing discharge instructions for most of their patients. However, we do not believe they are providing this care for all of their patients. Of the approximately 600,000 patients discharged from CAHs each year, we estimate that about 60,000 additional patients would require discharge planning to comply with the requirement in this section. A nurse would probably perform this activity at an hourly salary of $67. This activity should require 30 minutes or 0.5 hours. Thus, for the 1,328 CAHs, we estimate that complying with this requirement would require 30,000 burden hours (60,000 patients × 0.5 hours) at a cost of $2 million (30,000 × $67 hourly nurse's salary). Approximately 5 minutes of this time would be spent consulting with either the MD/DO or the APRN/PA at a cost of $702,180 (60,000 patients × 0.083 hours × $141 (($187 + $94)/2), resulting in an approximate total of $2.7 million annually.

Whenever a patient is discharged or transferred to another facility, proposed § 485.642(e) would require CAHs to send necessary medical information to the receiving facility at the time of transfer. The necessary information that the CAH must send to the receiving facility includes all the items listed at proposed § 485.642(e)(2)(i) through (viii). Currently, the CoPs at § 485.631(c)(2)(ii) provide that a CAH must arrange for, or refer patients to, needed services that cannot be furnished at the CAH. CAHs are to ensure that adequate patient medical records are maintained and transferred as required when patients are referred. We believe that CAHs are already providing the information listed at proposed § 485.642(d)(2)(i) through (viii), except for (ii), which specifically requires an assessment of functional status, and (iv), which requires the reconciliation of all discharge medications with the patient's pre-CAH admission/registration medications (both prescribed and over-the counter), including known allergies. Although we believe all CAHs are ensuring that information about functional status and about known allergies is being forwarded, we are not certain that they are all reconciling the pre-CAH medications with the discharge medications. Therefore, we will analyze a burden for this reconciliation. Since both proposed § 485.642(d)(2)(iv) and § 482.642(e)(2)(iv) require medication reconciliation, we will assess the burden for both of these subsections together.

The burden for reconciling pre-admission/registration medications (both prescribed and over-the-counter) with the discharge medications would be the resources required to review the patient's chart to identify all of a patient's pre-admission medications and compare them to the discharge medications. Typically, a physician, nurse, or other healthcare provider would do a history for each patient upon admission. A nurse would usually then compare the medications the patient was taking pre-admission to those ordered by the practitioner and reconcile them. If there were any discrepancies that the nurse questioned, he or she would then consult with the practitioner caring for the patient. When a patient is ready for discharge, the nurse would then compare the pre-admission medications with the discharge medications. If he or she questioned any changes, the nurse would need to question the prescribing practitioner about the discrepancy.

Based on our experience with CAHs, we believe that a nurse would review the patient's chart and reconcile the pre-admission and discharge medications. The time required for this reconciliation would vary greatly depending upon the number of medications a patient was taking, both pre-admission and at discharge, and the number of changes or discrepancies that the nurse questioned. We estimate that this activity would require an average of 3 minutes for each patient or 0.05 hours. We estimate that there are about 600,000 discharges annually that would require this medication reconciliation. Nurses earn an average hourly salary of $67. Thus, complying with this requirement would require an estimated 30,000 burden hours (600,000 discharges × 0.05 hours per patient) across all CAHs annually at a cost of $2 million (30,000 burden hours × $67).

We welcome comments on these estimates and any available data that we could use to improve our estimates. Based on the previously stated estimates, to comply with all of the requirements in proposed § 485.642, we estimate a total one-time cost of $7 million and a total annual cost of approximately $6 million for CAHs nationwide.

TABLE 1—SUMMARY OF INFORMATION COLLECTION BURDENS

Regulation section(s)	OMB Control No.	Number of respondents	Number of responses	Burden per response (hours)	Total annual burden (hours)	Hourly labor cost of reporting ($)	Total cost ($)
§ 482.43(a)	0938–XXXX	4,900	4,900	8	39,200	67	2,626,400
§ 482.43(a)	0938–XXXX	4,900	4,900	8	39,200	174	6,820,800
§ 482.43(a)	0938–XXXX	4,900	4,900	8	39,200	187	7,330,400
§ 482.43(b)	0938–XXXX	4,900	13,000,000	0.083	1,079,000	99	106,821,000
§ 484.58(a)	0938–XXXX	11,930	11,930	8	95,440	67	6,394,480
§ 484.58(a)	0938–XXXX	11,930	11,930	8	95,440	98	9,353,120
§ 484.58(a)	0938–XXXX	11,930	11,930	8	95,440	187	17,847,280
§§ 484.58(a) & (b)	0938–XXXX	11,930	18,000,000	0.033	594,000	187	111,078,000
§§ 484.58(a) & (b)	0938–XXXX	11,930	18,000,000	0.05	900,000	52	46,800,000
§§ 484.58(a) & (b)	0938–XXXX	11,930	18,000,000	0.083	1,494,000	67	100,098,000
§§ 484.58(a) & (b)	0938–XXXX	11,930	18,000,000	0.042	756,000	32	24,192,000
§ 485.642(b)	0938–XXXX	1,328	1,328	16	21,248	67	1,423,616
§ 485.642(b)	0938–XXXX	1,328	1,328	16	21,248	187	3,973,376
§ 485.642(b)	0938–XXXX	1,328	1,328	16	21,248	98	2,082,304
§ 485.642(c)	0938–XXXX	1,328	120,000	0.083	9,960	94	936,240
§ 485.642(c)	0938–XXXX	1,328	30,000	0.033	990	187	185,130
§ 485.642(d)	0938–XXXX	1,328	60,000	0.5	30,000	67	2,010,000
§ 485.642(d)	0938–XXXX	1,328	60,000	0.083	4,980	141	702,180
§ 485.642(e)	0938–XXXX	1,328	600,000	0.05	30,000	67	2,010,000
Total		18,158	85,924,474		5,366,594		453,520,660

Note: **There are no capital/maintenance costs associated with the information collection requirements contained in this rule; therefore, we have removed the associated column from Table 1.

If you comment on these information collection and recordkeeping requirements, please do either of the following:

1. Submit your comments electronically as specified in the **ADDRESSES** section of this proposed rule; or

2. Submit your comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: CMS Desk Officer, CMS–3317–P, Fax: (202) 395–6974; or, Email: *OIRA_submission@omb.eop.gov*.

IV. Regulatory Impact Analysis

A. Statement of Need

Discharge planning is an important component of successful transitions from acute care hospitals and PAC settings, as we have previously discussed. It is universally agreed to be an essential function of hospitals. The transition may be to a patient's home (with or without PAC services), skilled nursing facility or nursing home, long term care hospital, rehabilitation facility, assisted living center, hospice, or a variety of other settings. The location to which a patient may be discharged should be based on the patient's clinical care requirements, available support network, and patient and caregiver treatment preferences and goals of care.

Although the current hospital discharge planning process meets the needs of many inpatients released from the acute care setting, some discharges result in less-than optimal outcomes for patients including complications and adverse events that lead to hospital readmissions. Reducing avoidable hospital readmissions and patient complications presents an opportunity for improving the quality and safety of patient care, while potentially reducing health care costs. Executive Order 13563 expressly states, in its section on retrospective review, that ''agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.''

We believe that the provisions of the IMPACT Act that require hospitals, CAHs, and PAC providers take into account quality measures and resource use and other measures to assist patients and their families during the discharge planning process will encourage patients and their families to become active participants in the planning of their transition from the hospital to the PAC setting (or between PAC settings). This requirement will allow patients and their families' access to information that will help them to make informed decisions about their post-acute care, while addressing their goals of care and treatment preferences. Patients and their families that are well informed of their choices of high-quality PAC providers may reduce their chances of being re-hospitalized.

Equally importantly, the necessity of meeting this new legislative requirement provides an opportunity to meet the requirement for retrospective review of an important set of regulatory requirements that have not been systematically reviewed in decades. Finally, recent findings about health care delivery problems related to hospitalization, including discharge and readmissions, have indicated that major problems exist. For example, the Institute of Medicine study *To Err is Human* found that failure to properly manage and reconcile medications is a major problem in hospitals (see summary discussion at *https://iom.nationalacademies.org/Reports/1999/To-Err-is-Human-Building-A-Safer-Health-System.aspx*).

B. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the 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) and the Congressional Review Act (5 U.S.C. 804(2).

Executive Orders 12866 and 13563 direct agencies to assess all costs and

benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (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 (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We estimate that this rulemaking is ''economically significant'' as measured by the $100 million threshold, and hence also a major rule under the Congressional Review Act. Accordingly, we have prepared a RIA that, taken together with the ICR section and other sections of the preamble, presents our best estimates of the effects costs and benefits of the rulemaking.

The Congressional Review Act, 5 U.S.C. 801 *et. seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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. HHS will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

This proposed rule would create both one-time and annual costs for CAHs and HHAs. The financial costs are summarized in the table that follows. We welcome public comments on all of our burden assumptions and estimates.

TABLE 2—SECTION-BY-SECTION ECONOMIC IMPACT ESTIMATES*

Provider/Supplier	Frequency	Number of affected entities	Likely ($ millions)
Hospitals (§ 482.43)	One-time	4,900	17
	Recurring Annually		107
CAHs (§ 485.642)	One-time	1,328	7
	Recurring Annually		6
HHAs (§ 484.58)	One-time	11,930	34
	Recurring Annually		283
Total Costs in First Full Year			454

* This table includes entries only for those proposed reforms that we believe would have a measurable economic effect; includes estimates from ICRs and RIA sections. All estimates are rounded to the nearest million.

C. Anticipated Effects

1. Effects on Hospitals (Including LTCHs and IRFs), CAHs, and HHAs

We have accounted for the regulatory impact of these proposed changes through the analysis of costs contained in the ICR sections previously mentioned in this proposed rule. We believe these estimates encompass all additional burden on hospitals, CAHs and HHAs. Any burden associated with the proposed changes to the CoPs not accounted for in the ICR sections or in the RIA section was omitted because we believe it would constitute a usual and customary business practice and would not be subject to the PRA in accordance with 5 CFR 1320.3(b)(2). Nor would it constitute an added cost for purposes of RIA estimates if we added a regulatory requirement that reflected existing practices and workload. We note that we do not estimate costs for the newly added requirement to present quality and cost information to those hospital patients who face a decision on selection of post-discharge providers. In our view, hospitals already counsel patients on these choices, and the availability of written quality information will not add significantly to the time involved, and may in some cases reduce it (the information, of course, would only be presented as pertinent to the particular decisions facing particular patients). Indeed, all providers affected by this rule already have access to quality information from the CMS Web sites Hospital Compare, Nursing Home Compare, and Home Health Compare, as well as other public and private Web sites and their own knowledge of local providers, and presumably many or most use this information as appropriate to counsel patients. If readers believe we have omitted some category of cost by incorrectly assuming it is already being performed, or to have unnecessarily presented cost estimates for functions that are already being performed, we would welcome comments on these areas of the proposed rule.

Our estimates of the effects of this regulation are subject to significant uncertainty. While the Department of Health and Human Services is confident that these proposals will provide flexibilities to facilities that will minimize cost increases, there are uncertainties about the magnitude of the discussed effects. However, we have based our overall assumptions and best estimates on our ongoing experiences with hospitals, CAHs, and HHAs in these matters. We welcome public comments on these assumptions and estimates.

In addition, as we previously explained, there may be significant additional health benefits, such as the reduction in patient readmissions after discharges and the reduction of other post-discharge patient complications.

2. Effects on Small Entities

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, we estimate that the great majority of the providers that would be affected by our

rules are small entities as that term is used in the RFA. The great majority of hospitals and most other healthcare providers and suppliers are small entities, either by being nonprofit organizations or by meeting the SBA definition of a small business. Accordingly, the usual practice of HHS is to treat all providers and suppliers as small entities in analyzing the effects of our rules.

As shown in table 1, we estimate that the recurring costs of this proposed rule would cost affected entities approximately $396 million a year (out of the total first year cost of $454 million a year). A majority of these costs would impact HHAs. While this is a large amount in total, the average annual costs per affected HHA are only about $24,000 per year ($283 million in total for all HHAs/11,930 HHAs). Although the overall magnitude of the paperwork, staffing, and related costs to HHAs under this rule is economically significant, these costs are about 1 percent of total HHA costs. According to the 2014 Annual Report of the Medicare trustees, the total annual spending on HHA services from Medicare Parts A and B, not including private payments, was $18.4 billion in 2013. Our estimated annual cost is 1.5 percent of that total ($283 million/$l8.4 billion), and as a per patient cost would be approximately that same percentage (less, if private spending were included) for all HHAs. Accordingly, we have concluded that the costs of this proposed rule will not reach 3 percent of revenues, the threshold used by HHS to determine whether a proposed rule is likely to create a negative ''significant impact on a substantial number of small entities,'' and thereby trigger the requirement for an initial Regulatory Flexibility Analysis.

Effects on hospitals are far smaller, and estimated to be about $107 million annually in recurring costs. Total annual expenses for all hospitals are about $859 billion a year.[9] The estimated costs of this rule would be approximately one hundredth of one percent of this expenditure amount and, since revenues and costs are roughly equal, an equally small percent of revenues.

Total national CAH revenues from Medicare are approximately $9 billion a year, or an average of about $7 million annually per hospital ($9 billion/1,328). We believe that all or almost all CAHs meet the size threshold for small entities. We estimate that this proposed rule would impose costs of approximately $6 million nationally, or about $4,600 per hospital (revenue data from MEDPAC report ''Critical Access Hospitals Payment System'' at *http://www.medpac.gov/documents/payment-basics/critical-access-hospitals-payment-system-14.pdf?sfvrsn=0*). Assuming conservatively that one-half of all CAH patients are Medicare beneficiaries, and that Medicare accounts for a like percentage of revenues, this would be a small fraction of 1 percent of annual revenues (or, as is roughly equivalent, annual costs). The HHS threshold used for determining significant economic effect on small entities is 3 percent of costs. Accordingly, after a review of cost effects on HHAs, hospitals, and CAHs, we have determined that this proposed rule would not have a significant economic impact on a substantial number of small entities, and certify that an initial RFA is not required.

We note that quite apart from the gross costs of compliance being a small fraction of revenues or costs of affected entities, net costs will be far smaller. Payment for hospital inpatient services for Medicare beneficiaries is paid primarily according to Medicare severity diagnosis-related groups (MS–DRGs), and MS–DRGs for hospital procedures are periodically revised to reflect the latest estimates of costs from hospitals themselves, as well as from other sources. Hence, absent offsetting effects from other payment changes, and depending on hospitals' success in controlling overall costs, some portion of these costs will be recovered from Medicare. Moreover, hospitals can and do periodically revise their charges to private insurance carriers (subject in part to negotiations over rates) and for the approximately half of all patients who are ''private pay'' cost increases can be partially offset in that way. As for CAHs, they are largely paid on a cost basis for their Medicare patients, and will presumably be able to recoup additional costs through periodic adjustments to public and private payment rates. Finally, HHAs also obtain periodic changes in payment rates from both public and private payers. In all three cases, we have no way to predict precise future pathways or exact timing however, we believe that most of the recurring costs (and almost all in the case of CAHs) will be recovered through payments from third party payers, public and private.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. For the preceding reasons, we have determined that this proposed rule does not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2015, that is approximately $157 million. This proposed rule would require HHA spending in excess of that threshold, at least in early years before subsequent payment rate increases may take increased costs into account. Mandated spending for CAHs, in contrast, is largely reimbursed on a cost basis and would not count as an unfunded mandate. This RIA and the preamble as presented together here in this proposed rule meet the UMRA requirements for analysis.

Executive Order 13132 establishes certain requirements that an agency must meet when it issues a proposed rule (and subsequent final rule) that would impose substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. This rule would not have a substantial direct effect on state or local governments, preempt states, or otherwise have a Federalism implication.

3. Effects on Patients and Medical Care Costs

Patients in all three settings are the major beneficiaries of this rule. Research cited earlier in this preamble strongly suggests that there would be reductions in morbidity and mortality from improving services to these patients through improved discharge planning. We are unable to quantify either the volume or dollar value of expected benefits. We are not aware of reliable empirical data on the benefits of improved discharge planning. In addition, there are multiple initiatives affecting the same patients (for example, the Hospital Readmissions Reduction Program, the Medicare EHR Incentive Program, and the Accountable Care Organizations under the Medicare Shared Savings Program). This makes it challenging to sort out the separable benefits of this proposed rule.

[9] *http://www.aha.org/research/rc/stat-studies/fast-facts.shtml*

Nonetheless, the number of patients potentially benefitting is significant. There are roughly 35 million inpatient discharges from hospitals annually. In addition, there are approximately 32 million patients newly affected by substantially modified discharge planning requirements (this figure includes an additional 13 million annual hospital outpatient discharges, 18 million annual HHA patient discharges, and 600,000 annual CAH discharges). If mortality or serious morbidity were prevented for even a fraction of 1 percent of these nearly 50 million patients, potentially tens or hundreds of thousands of persons would substantially benefit.

There are existing requirements in place for discharge planning and for reducing adverse events such as hospital readmissions, both in regulations governing patient care and in payment regulations, but little or no data on the effectiveness of these requirements compared to the normal effects of good medical practice. The changes that would be implemented by this proposed rule are an additional overlay on top of existing practices and requirements. It is challenging to disentangle all these overlapping factors. Therefore, existing data demonstrate that even small improvements can have effects as large as those previously suggested in this proposed rule. For example, one meta-analysis showed that transitional care that promotes the safe and timely transfer of patients from hospital to home has been proven to be highly effective in reducing readmissions.[10] We welcome comments that would provide evidence in regard to these findings.

D. Alternatives Considered

As we previously stated in this proposed rule, some of these provisions are mandated under the IMPACT Act, therefore, no major alternatives were considered. For the other proposed provisions, we considered not making these changes. We did not consider additional requirements that we did not believe would result in substantial benefits at reasonable cost. For example, we considered requiring specific post-discharge follow-up procedures, but concluded that the range of procedures is so great (including, for example, such very low cost procedures as automatically generated text or email reminders about medication compliance, and such high cost procedures as home visits by nurses), and the range of patient situations so wide (including in many cases no likely benefit from follow-up and in others no efficient way to predict likely benefits), that no reasonable or practicable requirement could be devised at this time. Of course, we encourage providers to use follow-up procedures they find cost-effective for particular categories of patients. We welcome comments and data on these or other follow-up alternatives that may have been shown to be cost-effective in discharge planning, and on what form and with what enforcement standards a mandatory requirement might reasonably use.

We also considered proposing mandatory use of the approximately 50 state-run PDMPs by providers regulated under this proposed rule (each state has its own version and operational, security, access, and other details vary by state). Where hospitals in particular states voluntarily use such programs based on their own determination of utility, we strongly encourage use of such systems. PDMPs have proven useful for law enforcement purposes and, in some states, for pharmacy use. There are, however, uncertainties as to use in hospital settings. As one recent study stated, ''whether mandates should become a best practice depends on proving their [PDMP] feasibility and benefits.'' [11] As discussed earlier in the preamble, there are also questions about ''legal, technical, privacy, or security challenges'' of provider use of PDMPs, including difficulties of use with EHRs.[12] Regardless, we need current information on whether and where PDMPs have been used effectively and at reasonable cost in hospital discharge planning.[13] Accordingly, we solicit comments that provide specific information on the feasibility, costs, and patient benefits of using PDMP systems in hospital discharge planning, and on workable implementation and enforcement standards for a possible mandatory requirement.

For all provisions, we attempted to minimize unnecessarily prescriptive methods or procedures, and to avoid any unnecessarily costly requirements. We welcome comments on whether we properly selected the best provisions for change and on whether there are alternatives or improvements to the proposed provisions that would increase benefits at reasonable cost or reduce costs without compromising important benefits.

E. Cost to the Federal Government

If these requirements are finalized, CMS will update the interpretive guidance, update the survey process, and provide training. In order to implement these new standards, we anticipate initial federal startup costs between $8 to $10 million. The continuing costs (survey process-recertifications, enforcement, appeals, AO) are estimated $4,461,131 and will continue annually, thereafter. CMS will continue to examine and seeks comment on the potential impacts to both Medicare and Medicaid.

F. Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars_a004_a-4*), in Table 2 we present an accounting statement showing the classification of the costs and benefits associated with the provisions of this final rule. The accounting statement is based on estimates provided in this regulatory impact analysis. We have used as an estimating horizon a 5 year period, but expect that annualized costs would remain essentially the same over a longer period, after the initial year. For purposes of this table, we have used a low estimate that is 25 percent lower than our primary estimate, and a high estimate that is 25 percent higher than our primary estimate. As previously discussed, we have no empirical data or results from previous studies that would allow a defensible estimate of annualized benefits in terms of morbidity and mortality prevented, and medical costs avoided.

[10] Kim J. Verhhaegh et al., ''Transitional Care Interventions Prevent Hospital Readmissions for Adults with Chronic Illnesses,'' *Health Affairs,* 33, no. 9 (2014):1531–1539.

[11] Thomas Clark, John Eadie, Peter Kreiner, and Gail Strickler. *Prescription Drug Monitoring Programs: An Assessment of the Evidence for Best Practices.* A study prepared for the PEW Charitable Trusts. September 20, 2012. At: *http://www.pdmpexcellence.org/sites/all/pdfs/Brandeis_PDMP_Report_final.pdf.*

[12] HHS report to the Congress, *Prescription Drug Monitoring Program Interoperability Standards,* September 2013, section on ''Assessment of Legal, Technical, Fiscal, Privacy, and Security Challenges,'' at *https://www.healthit.gov/sites/default/files/fdasia1141report_final.pdf.*

[13] See the case studies in the 2013 report *Connecting for Impact: Integrating Health IT and PDMPs to Improve Patient Care,* The Mitre Corporation, at *https://www.healthit.gov/sites/default/files/connecting_for_impact-final-508.pdf. https://www.healthit.gov/sites/default/files/connecting_for_impact-final-508.pdf.*

TABLE 2—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED COSTS AND BENEFITS

[$ In millions]

Category	Primary estimate	Low estimate	High estimate	Units		
				Year dollars	Discount rate (%)	Period covered
Benefits—Qualitative not quantitative or monetized	Potential Reductions in morbidity, mortality, and medical costs for hospital, HHA, and CAH patients.					
Costs—Annual Monetized Costs of Discharge Planning to Medical Care Providers	$420 410	$310 310	$510 510	2015 2015	7 3	2016–20 2016–20
Transfers	None.					

This proposed rule was reviewed by the Office of Management and Budget.

V. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

List of Subjects

42 CFR Part 482

Grant Programs—health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 484

Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 485

Grant programs—health, Health facilities, Medicaid, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare and Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

■ 1. The authority citation for part 482 is revised to read as follows:

Authority: Secs. 1102, 1871, 1881, 1899B of the Social Security Act (42 U.S.C. 1302, 1395hh, 1395rr, and 1395lll) unless otherwise noted.

■ 2. Section 482.43 is revised to read as follows:

§ 482.43 Condition of participation: Discharge planning.

The hospital must develop and implement an effective discharge planning process that focuses on the patient's goals and preferences and prepares patients and their caregivers/support person(s), to be active partners in post-discharge care, planning for post-discharge care that is consistent with the patient's goals for care and treatment preferences, effective transition of the patient from hospital to post-discharge care, and the reduction of factors leading to preventable hospital readmissions.

(a) *Standard: Design.* The discharge planning process policies and procedures must meet the following requirements:

(1) Be developed with input from the hospital's medical staff, nursing leadership as well as other relevant departments;

(2) Be reviewed and approved by the governing body; and

(3) Be specified in writing.

(b) *Standard: Applicability.* The discharge planning process must apply to:

(1) All inpatients;

(2) Outpatients receiving observation services;

(3) Outpatients undergoing surgery or other same day procedures for which anesthesia or moderate sedation are used;

(4) Emergency department patients identified in accordance with the hospital's discharge planning policies and procedures by the emergency department practitioner responsible for the care of the patient as needing a discharge plan; and

(5) Any other category of outpatients as recommended by the medical staff and specified in the hospital's discharge planning policies and procedures approved by the governing body.

(c) *Standard: Discharge planning process.* The hospital's discharge planning process must ensure that the discharge goals, preferences, and needs of each patient are identified and result in the development of a discharge plan for each patient in accordance with paragraph (b) of this section.

(1) A registered nurse, social worker, or other personnel qualified in accordance with the hospital's discharge planning policies must coordinate the discharge needs evaluation and development of the discharge plan.

(2) The hospital must begin to identify the anticipated discharge needs for each applicable patient within 24 hours after admission or registration, and the discharge planning process is completed prior to discharge home or transfer to another facility and without unduly delaying the patient's discharge or transfer. If the patient's stay is less than 24 hours, the discharge needs for each applicable patient must be identified and the discharge planning process completed prior to discharge home or transfer to another facility and without unnecessarily delaying the patient's discharge or transfer.

(3) The hospital's discharge planning process must require regular re-evaluation of the patient's condition to identify changes that require modification of the discharge plan. The discharge plan must be updated, as needed, to reflect these changes.

(4) The practitioner responsible for the care of the patient must be involved in the ongoing process of establishing the patient's goals of care and treatment preferences that inform the discharge plan.

(5) The hospital must consider caregiver/support person and community based care availability and the patient's or caregiver's/support person's capability to perform required care including self-care, care from a support person(s), follow-up care from a community based provider, care from post-acute care practitioners and facilities, or, in the case of a patient

admitted from a long term care facility or other residential facility, care in that setting, as part of the identification of discharge needs. The hospital must consider the following in evaluating a patient's discharge needs, including but not limited to:

(i) Admitting diagnosis or reason for registration;

(ii) Relevant co-morbidities and past medical and surgical history;

(iii) Anticipated ongoing care needs post-discharge;

(iv) Readmission risk;

(v) Relevant psychosocial history;

(vi) Communication needs, including language barriers, diminished eyesight and hearing, and self-reported literacy of the patient, patient's representative or caregiver/support person(s), as applicable;

(vii) Patient's access to non-health care services and community based care providers; and

(viii) Patient's goals and treatment preferences.

(6) The patient and caregiver/support person(s) must be involved in the development of the discharge plan, and informed of the final plan to prepare them for post-hospital care.

(7) The discharge plan must address the patient's goals of care and treatment preferences.

(8) The hospital must assist the patients, their families, or the patient's representative in selecting a post-acute care provider by using and sharing data that includes but is not limited to HHA, SNF, IRF, or LTCH data on quality measures and data on resource use measures. The hospital must ensure that the post-acute care data on quality measures and data on resource use measures is relevant and applicable to the patient's goals of care and treatment preferences.

(9) The evaluation of the patient's discharge needs and the resulting discharge plan must be documented and completed on a timely basis, based on the patient's goals, preferences, strengths, and needs, so that appropriate arrangements for post-hospital care are made before discharge to avoid unnecessary delays in discharge.

(i) The discharge plan must be included in the patient's medical record. The results of the evaluation must be discussed with the patient or patient's representative.

(ii) All relevant patient information must be incorporated into the discharge plan to facilitate its implementation and to avoid unnecessary delays in the patient's discharge or transfer.

(10) The hospital must assess its discharge planning process on a regular basis. The assessment must include ongoing, periodic review of a representative sample of discharge plans, including those patients who were readmitted within 30 days of a previous admission, to ensure that the plans are responsive to patient post-discharge needs.

(d) *Standard: Discharge to home.* (1) Discharge instructions must be provided at the time of discharge to:

(i) The patient and/or the patient's caregiver/support person(s), and

(ii) The post-acute care provider or supplier, if the patient is referred to post-acute care services.

(2) The discharge instructions must include, but are not limited to, the following:

(i) Instruction on post-hospital care to be used by the patient or the caregiver/support person(s) in the patient's home, as identified in the discharge plan;

(ii) Written information on warning signs and symptoms that may indicate the need to seek immediate medical attention. This must include written instructions on what the patient or the caregiver/support person(s) should do and who they should contact if these warning signs or symptoms present;

(iii) Prescriptions and over-the counter medications that are required after discharge, including the name, indication, and dosage of each drug, along with any significant risks and side effects of each drug as appropriate to the patient;

(iv) Reconciliation of all discharge medications with the patient's pre-hospital admission/registration medications (both prescribed and over-the-counter); and

(v) Written instructions in paper and/or electronic format regarding the patient's follow-up care, appointments, pending and/or planned diagnostic tests, and pertinent contact information, including telephone numbers, for any practitioners involved in follow-up care or for any providers/suppliers to whom the patient has been referred for follow-up care.

(3) The hospital must send the following information to the practitioner(s) responsible for follow up care, if the practitioner is known and has been clearly identified:

(i) A copy of the discharge instructions and the discharge summary within 48 hours of the patient's discharge;

(ii) Pending test results within 24 hours of their availability;

(iii) All other necessary information as specified in § 482.43(e)(2).

(4) The hospital must establish a post-discharge follow-up process.

(e) *Standard: Transfer of patients to another health care facility.* (1) The hospital must send necessary medical information to the receiving facility at the time of transfer.

(2) Necessary medical information must include:

(i) Demographic information, including but not limited to name, sex, date of birth, race, ethnicity, preferred language;

(ii) Contact information for the practitioner responsible for the care of the patient, as described at paragraph (b)(4) of this section, and the patient's caregiver(s)/support person(s), if applicable;

(iii) Advance directive, if applicable;

(iv) Course of illness/treatment;

(v) Procedures;

(vi) Diagnoses;

(vii) Laboratory tests and the results of pertinent laboratory and other diagnostic testing;

(viii) Consultation results;

(ix) Functional status assessment;

(x) Psychosocial assessment, including cognitive status;

(xi) Social supports;

(xii) Behavioral health issues;

(xiii) Reconciliation of all discharge medications with the patient's pre-hospital admission/registration medications (both prescribed and over-the counter);

(xiv) All known allergies, including medication allergies;

(xv) Immunizations;

(xvi) Smoking status;

(xvii) Vital signs;

(xviii) Unique device identifier(s) for a patient's implantable device(s), if any;

(xix) All special instructions or precautions for ongoing care, as appropriate;

(xx) Patient's goals and treatment preferences; and

(xxi) All other necessary information including a copy of the patient's discharge instructions, the discharge summary and any other documentation as applicable, to ensure a safe and effective transition of care that supports the post-discharge goals for the patient.

(f) *Standard: Requirements for post-acute care services.* For those patients discharged home and referred for HHA services, or for those patients transferred to a SNF for post-hospital extended care services, or transferred to an IRF or LTCH for specialized hospital services, the following requirements apply, in addition to those set out at paragraphs (a) through (d) of this section:

(1) The hospital must include in the discharge plan a list of HHAs, SNFs, IRFs, or LTCHs that are available to the patient, that are participating in the Medicare program, and that serve the geographic area (as defined by the HHA) in which the patient resides, or in the

case of a SNF, IRF, or LTCH, in the geographic area requested by the patient. HHAs must request to be listed by the hospital as available.

(i) This list must only be presented to patients for whom home health care post-hospital extended care services, SNF, IRF, or LTCH services are indicated and appropriate as determined by the discharge planning evaluation.

(ii) For patients enrolled in managed care organizations, the hospital must make the patient aware of the need to verify with their managed care organization which practitioners, providers or certified suppliers are in the managed care organization's network. If the hospital has information on which practitioners, providers or certified supplies are in the network of the patient's managed care organization, it must share this with the patient or the patient's representative.

(iii) The hospital must document in the patient's medical record that the list was presented to the patient or to the patient's representative.

(2) The hospital, as part of the discharge planning process, must inform the patient or the patient's representative of their freedom to choose among participating Medicare providers and suppliers of post-discharge services and must, when possible, respect the patient's or the patient's representative's goals of care and treatment preferences, as well as other preferences they express. The hospital must not specify or otherwise limit the qualified providers or suppliers that are available to the patient.

(3) The discharge plan must identify any HHA or SNF to which the patient is referred in which the hospital has a disclosable financial interest, as specified by the Secretary, and any HHA or SNF that has a disclosable financial interest in a hospital under Medicare. Financial interests that are disclosable under Medicare are determined in accordance with the provisions of part 420, subpart C, of this chapter.

PART 484—HOME HEALTH SERVICES

■ 3. The authority citation for part 484 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395(hh)), unless otherwise indicated.

■ 4. Section 484.58 is added to subpart C to read as follows:

§ 484.58 Condition of participation: Discharge Planning.

A Home Health Agency (HHA) must develop and implement an effective discharge planning process that focuses on preparing patients to be active partners in post-discharge care, effective transition of the patient from HHA to post-HHA care, and the reduction of factors leading to preventable readmissions.

(a) *Standard: Discharge planning process.* The HHA's discharge planning process must ensure that the discharge goals, preferences, and needs of each patient are identified and result in the development of a discharge plan for each patient.

(1) The discharge planning process must require regular re-evaluation of patients to identify changes that require modification of the discharge plan, in accordance with the provisions for updating the patient assessment at § 484.55. The discharge plan must be updated, as needed, to reflect these changes.

(2) The physician responsible for the home health plan of care must be involved in the ongoing process of establishing the discharge plan.

(3) The HHA must consider caregiver/support person availability, and the patient's or caregiver's capability to perform required care, as part of the identification of discharge needs.

(4) The patient and caregiver(s) must be involved in the development of the discharge plan, and informed of the final plan.

(5) The discharge plan must address the patient's goals of care and treatment preferences.

(6) For patients who are transferred to another HHA or who are discharged to a SNF, IRF, or LTCH, the HHA must assist patients and their caregivers in selecting a post-acute care provider by using and sharing data that includes, but is not limited to HHA, SNF, IRF, or LTCH data on quality measures and data on resource use measures. The HHA must ensure that the post-acute care data on quality measures and data on resource use measures is relevant and applicable to the patient's goals of care and treatment preferences.

(7) The evaluation of the patient's discharge needs and discharge plan must be documented and completed on a timely basis, based on the patient's goals, preferences, and needs. The discharge plan must be included in the clinical record. The results of the evaluation must be discussed with the patient or patient's representative. All relevant patient information must be incorporated into the discharge plan to facilitate its implementation and to avoid unnecessary delays in the patient's discharge or transfer.

(b) *Standard: Discharge or transfer summary content.* The HHA must send necessary medical information to the receiving facility or health care practitioner. Necessary medical information must include:

(1) Demographic information, including but not limited to name, sex, date of birth, race, ethnicity, preferred language;

(2) Contact information for the physician responsible for the home health plan of care;

(3) Advance directive, if applicable;

(4) Course of illness/treatment;

(5) Procedures;

(6) Diagnoses;

(7) Laboratory tests and the results of pertinent laboratory and other diagnostic testing;

(8) Consultation results;

(9) Functional status assessment;

(10) Psychosocial assessment, including cognitive status;

(11) Social supports;

(12) Behavioral health issues;

(13) Reconciliation of all discharge medications (both prescribed and over-the-counter);

(14) All known allergies, including medication allergies;

(15) Immunizations;

(16) Smoking status;

(17) Vital Signs;

(18) Unique device identifier(s) for a patient's implantable device(s), if any;

(19) Recommendations, instructions, or precautions for ongoing care, as appropriate;

(20) Patient's goals of care and treatment preferences;

(21) The patient's current plan of care, including goals, instructions, and the latest physician orders; and

(22) Any other information necessary to ensure a safe and effective transition of care that supports the post-discharge goals for the patient.

PART 485—CONDITIONS OF PARTICIPATION SPECIALIZED PROVIDERS

■ 5. The authority citation for part 485 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395(hh)).

■ 6. Section 485.635 is amended by adding paragraph (a)(3)(viii) to read as follows:

§ 485.635 Condition of participation: Provision of services.

* * * * *

(a) * * *

(3) * * *

(viii) Discharge planning policies and procedures, in accordance with the requirements of § 485.642.

* * * * *

■ 7. Section 485.642 is added to read as follows:

§ 485.642 Condition of participation: Discharge planning.

A Critical Access Hospital (CAH) must develop and implement an effective discharge planning process that focuses on preparing patients to participate in post-discharge care, planning for post-discharge care that is consistent with the patient's goals for care and treatment preferences, effective transition of the patient from the CAH to post-discharge care, and the reduction of factors leading to preventable readmissions to a CAH or a hospital.

(a) *Standard: Design.* The discharge planning process policies and procedures must meet the following requirements:

(1) Be developed with input from the CAH's professional healthcare staff, nursing leadership as well as other relevant departments;

(2) Be reviewed and approved by the governing body or responsible individual; and

(3) Be specified in writing.

(b) *Standard: Applicability.* The discharge planning process must apply to:

(1) All inpatients;

(2) Outpatients receiving observation services;

(3) Outpatients undergoing surgery or other same day procedures for which anesthesia or moderate sedation are used;

(4) Emergency department patients identified in accordance with the CAH's discharge planning policies and procedures by the emergency department practitioner responsible for the care of the patient as needing a discharge plan; and

(5) Any other category of outpatients as recommended by the medical staff and specified in the CAH's discharge planning policies and procedures approved by the governing body or responsible individual.

(c) *Standard: Discharge planning process.* The CAH's discharge planning process must ensure that the discharge goals, preferences, and needs of each patient are identified and result in the development of a discharge plan for each patient in accordance with paragraph (a) of this section.

(1) A registered nurse, social worker, or other personnel qualified in accordance with the CAH's discharge planning policies must coordinate the discharge needs evaluation and development of the discharge plan.

(2) The CAH must begin to identify the anticipated goals, preferences, and discharge needs for each applicable patient within 24 hours after admission or registration and the discharge planning process is completed prior to discharge home or transfer to another facility and without unduly delaying the patient's discharge or transfer. If the patient's stay is less than 24 hours, the discharge needs for each applicable patient must be identified and the discharge planning process completed prior to discharge home or transfer to another facility and without unnecessarily delaying the patient's discharge or transfer.

(3) The CAH's discharge planning process must require regular re-evaluation of patients to identify changes that require modification of the discharge plan. The discharge plan must be updated, as needed, to reflect these changes.

(4) The practitioner responsible for the care of the patient must be involved in the ongoing process of establishing the patient's goals of care and treatment preferences that inform the discharge plan.

(5) The CAH must consider caregiver/support person and community based care availability, and the patient's or caregiver's/support person's capability to perform required care including self-care, care from a support person(s), follow-up care from a community based provider, care from post-acute care facilities, or, in the case of a patient admitted from a long term care or other residential facility, care in that setting, as part of the identification of discharge needs. The CAH must consider the following in evaluating a patient's discharge needs, including but not limited to:

(i) Admitting diagnosis or reason for registration;

(ii) Relevant co-morbidities and past medical and surgical history;

(iii) Anticipated ongoing care needs post-discharge;

(iv) Readmission risk;

(v) Relevant psychosocial history;

(vi) Communication needs, including language barriers, diminished eyesight and hearing, and self-reported literacy of the patient, patient's representative or caregiver/support person(s), as applicable;

(vii) Patient's access to non-health care services and community based providers; and

(viii) Patient's goals and preferences.

(6) The patient and caregiver/support person(s) must be involved in the development of the discharge plan and informed of the final plan to prepare them for post-CAH care.

(7) The discharge plan must address the patient's goals of care and treatment preferences.

(8) The CAH must assist patients, their families, or their caregivers/support persons in selecting a post-acute care provider by using and sharing data that includes but is not limited to HHA, SNF, IRF, or LTCH data on quality measures and data on resource use measures. The CAH must ensure that the post-acute care data on quality measures and data on resource use measures furnished to the patient is specific to the post-acute care setting(s) and relevant and applicable to the patient's goals of care and treatment preferences.

(9) The evaluation of the patient's discharge needs and the resulting discharge plan must be documented and completed on a timely basis, based on the patient's goals, preferences, strengths, and needs, so that appropriate arrangements for post-CAH care are made before discharge to avoid unnecessary delays in discharge.

(i) The discharge plan must be included in the patient's medical record. The results of the evaluation must be discussed with the patient or patient's representative.

(ii) All relevant patient information must be incorporated into the discharge plan to facilitate its implementation and to avoid unnecessary delays in the patient's discharge or transfer.

(10) The CAH must assess its discharge planning process in accordance with the requirements of § 485.635(a)(4). The assessment must include ongoing, periodic review of a representative sample of discharge plans, including those patients who were readmitted within 30 days of a previous admission to ensure that the plans are responsive to patient post-discharge needs.

(d) *Standard: Discharge to home.* (1) Discharge instructions must be provided at the time of discharge to:

(i) The patient and/or the patient's caregiver/support person(s), and

(ii) The post-acute care service provider or supplier, if the patient is referred to community-based services.

(2) The discharge instructions must include, but are not limited to, the following:

(i) Instruction on post-discharge care to be used by the patient or the caregiver/support person(s) in the patient's home, as identified in the discharge plan;

(ii) Written information on warning signs and symptoms that may indicate the need to seek immediate medical attention. This must include written instructions on what the patient or the

caregiver/support person(s) should do and who they should contact if these warning signs or symptoms present;

(iii) Prescriptions for medications that are required after discharge, including a list of name, indication, and dosage of each drug, along with any significant risks and side effects of each drug as appropriate to the patient;

(iv) Reconciliation of all discharge medications with the patient's pre-CAH admission/registration medications (both prescribed and over-the-counter); and

(v) Written instructions regarding the patient's follow-up care, appointments, pending and/or planned diagnostic tests, and pertinent contact information, including telephone numbers, for practitioners involved in follow-up care or for any providers/suppliers to whom the patient has been referred for follow-up care.

(3) The CAH must send the following information to the practitioner(s) responsible for follow up care, if the practitioner is known and has been clearly identified:

(i) A copy of the discharge instructions and the discharge summary within 48 hours of the patient's discharge;

(ii) Pending test results within 24 hours of their availability;

(iii) All other necessary medical information as specified in § 485.642(e)(2).

(4) The CAH must establish a post-discharge follow-up process.

(e) *Standard: Transfer of patients to another health care facility.* (1) The CAH must send necessary medical information to the receiving facility at the time of transfer.

(2) Necessary medical information includes:

(i) Demographic information, including but not limited to name, sex, date of birth, race, ethnicity, preferred language;

(ii) Contact information for the practitioner responsible for the care of the patient, as described at paragraph (b)(4) of this section, and the patient's caregiver/support person(s), if applicable;

(iii) Advance directive, if applicable;

(iv) Course of illness/treatment;

(v) Procedures;

(vi) Diagnoses;

(vii) Laboratory tests and the results of pertinent laboratory and other diagnostic testing;

(viii) Consultation results;

(ix) Functional status assessment;

(x) Psychosocial assessment, including cognitive status;

(xi) Social supports;

(xii) Behavioral health issues;

(xiii) Reconciliation of all discharge medications with the patient's pre-CAH admission/registration medications (both prescribed and over-the-counter);

(xiv) All known allergies, including medication allergies;

(xv) Immunizations;

(xvi) Smoking status;

(xvii) Vital signs;

(xviii) Unique device identifier(s) for a patient's implantable device(s), if any;

(xix) All special instructions or precautions for ongoing care, as appropriate;

(xx) Patient's goals and treatment preferences; and

(xxi) Any other necessary information including a copy of the patient's discharge instructions, the discharge summary, and any other documentation as applicable, to ensure a safe and effective transition of care that supports the post-discharge goals for the patient.

Dated: October 19, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: October 22, 2015.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

[FR Doc. 2015–27840 Filed 10–29–15; 8:45 am]

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Part V

Department of Defense

32 CFR Part 273
Defense Materiel Disposition; Final Rule

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 273

[Docket ID: DOD–2013–OS–0145]

RIN 0790–AJ11

Defense Materiel Disposition

AGENCY: Under Secretary of Defense for Acquisition, Technology, and Logistics, DoD.

ACTION: Final rule.

SUMMARY: This final rule prescribes uniform procedures for the disposition of DoD personal property and establishes the sequence of processes for disposition of personal property of the DoD Components. Subpart A implements the statutory authority and regulations under which DoD personal property disposal takes place, as well as the scope and applicability for the program; defines the responsibilities of personnel and agencies involved in the Defense Materiel Disposition Program; provides procedures for disposal of excess property and scrap; and provides procedures for property donations, loans, and exchanges. Subpart B implements policy for reutilization, transfer, excess property screening, and issue of surplus property and foreign excess personal property (FEPP), scrap released by qualified recycling programs (QRPs), and non-QRP scrap; and provides guidance for removing excess material through security assistance programs and foreign military sales (FMS).

DATES: Effective December 3, 2015.

FOR FURTHER INFORMATION CONTACT: Randal Kendrick, 571–372–5202.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Regulatory Action

1. The Need for the Regulatory Action and How the Action Will Meet That Need

The purpose of this regulatory action is to define responsibilities of personnel and agencies involved in the Defense Materiel Disposition Program, and provide procedures for disposal of excess property and scrap, property donations, loans, and exchanges. It provides responsibilities and procedures about disposal guidance and procedures; and reutilization, transfer, and sale of property for defense materiel disposition. This regulatory action is important because of the drawdown of forces from the wars in Iraq and Afghanistan which resulted in surplus property (including hazardous property as defined in this rule) for which the proper disposition must be determined. This includes materials that could be considered hazardous waste under Resource Conservation and Recovery Act requirements in 42 U.S.C. 6901 *et seq.* upon being discarded.

2. Succinct Statement of Legal Authority for the Regulatory Action

Given the authority in:

- 10 U.S.C. 2194, 2208, 2572, 2576, 2576a, and 2576b, the Secretary of Defense may:
  - Make surplus property available for donation to eligible recipients; donate, lend, or exchange without expense to the United States books, manuscripts, works of art, historical artifacts, drawings, plans, models and condemned or obsolete combat materiel that are not needed by the Military Services.
  - Sell or donate designated items to State and local law enforcement, firefighting, homeland security, and emergency management agencies.
- 10 U.S.C. 2557, the Secretary of Defense may provide non-lethal DoD excess personal property for humanitarian purposes.
- 10 U.S.C. 2577, the Secretary of Defense may operate recycling programs at military installations and sell recyclable materials.
- 10 U.S.C. 4683, the Secretary of the Army may loan to recognized veterans' organizations (or local units of national veterans' organizations recognized by the U.S. Department of Veterans Affairs) obsolete or condemned rifles or cartridge belts for use by that unit for ceremonial purposes.
- 10 U.S.C. 7306, the Secretary of the Navy, with approval of Congress, may donate to eligible recipients any vessel stricken from the Naval Vessel Register or any captured vessel for use as a museum or memorial for public display.
- 10 U.S.C. 7545, the Secretary of the Navy may donate or loan captured, condemned, or obsolete ordnance materiel, books, manuscripts, works of art, drawings, plans, models, trophies and flags, and other condemned or obsolete materiel, as well as materiel of historical interest.
- 15 U.S.C. 3710(i), the Secretary of Defense may transfer (donate) laboratory (*e.g.,* scientific, research) equipment that is excess to the needs of that laboratory to public and private schools and nonprofit institutions in the U.S. zone of interior (ZI).
- 22 U.S.C. 2151, 2321b, 2321j, 2751, and 2778 *et seq.,* the Secretary of Defense with the approval of the Secretary of State, may transfer excess defense articles to eligible recipients.
- 40 U.S.C. subtitle I and sections 101, 541 *et seq.,* and 701, the Secretary of Defense may efficiently and economically dispose of excess property.
- 42 U.S.C. 3015 and 3020, the Secretary of Defense may donate surplus property to State and local government agencies, or nonprofit organizations or institutions that receive federal funding to conduct programs for older individuals.
- 42 U.S.C. Chapter 68, the Secretary of Defense may provide federal assistance to States, local governments, and relief organizations for emergency or major disaster assistance purposes.

B. Summary of the Major Provisions of the Regulatory Action in Question

This rule provides general guidelines and procedures for property disposition; provides guidance for budgeting for the disposal of excess, surplus, and foreign excess personal property (FEPP) property with updates via program budget decisions; ensures cost-effective disposal of precious metals bearing scrap and end items for the replenishment of valuable resources through the DoD Precious Metals Recovery Program (PMRP); outlines DoD screening methods for disposing of materiel; and describes procedures relating to foreign military sales.

C. Costs and Benefits

This rule benefits DoD by reducing the amount of excess property in inventory which provides savings to the Department from the associated costs of handling, transporting, and storing property. In FY 2014, DOD redistributed excess property with an acquisition value of $3.2 billion through reutilization by other components of DoD and special programs specified by legislative approval (such as foreign military sales, law enforcement agencies and fire fighters), transfer to other federal agencies, and donation to state approved organizations. In addition, in FY 2014, DoD returned $104 million to the U.S. Treasury through the sale of eligible excess property. The rule also provides environmental benefits through ensuring the disposition of property in accordance with environmental laws such as recycling materials where possible. The rule costs DoD $405M for 90 field offices and 1,500 people in DLA Disposition services worldwide to dispose of excess property and manage surplus useable property transfers, sales, and donations. The cost to cut, shred, and demilitarize

materiel is offset by the sales and recycling of the residue.

II. Retrospective Review

This rule is part of DoD's retrospective plan, completed in August 2011, under Executive Order 13563, ''Improving Regulation and Regulatory Review.'' DoD's full plan and updates can be accessed at: *http://www.regulations.gov/#!docketDetail;dct=FR+PR+N+O+SR;rpp=10;po=0;D=DOD-2011-OS-0036.*

III. Comments and Responses

On December 29, 2014, the Department of Defense published an interim final rule titled ''Defense Materiel Disposition'' (79 FR 78144–78218). The 60-day public-comment period expired on February 27, 2015. Two public comments were received. One of the comments expressed praise and support for the Defense Materiel Disposition program. The second comment expressed concern about the provision of excess Department of Defense property to law enforcement agencies.

Response: The congressionally authorized 1033 program provides property that is excess to the needs of the Department of Defense for use by agencies in law enforcement, counter-drug, and counter-terrorism activities. It enables first responders and others to ensure the public's safety and to save lives.

The Department is co-chairing the Law Enforcement Equipment Working Group established by executive order on January 16, 2015. The purpose of the working group is to identify agency actions that can improve Federal support for the acquisition of controlled equipment by law enforcement agencies (LEAs), including by providing LEAs with controlled equipment that is appropriate to the needs of their community; ensuring that LEAs are properly trained to employ the controlled equipment they acquire; ensuring that LEAs adopt organizational and operational practices and standards that prevent the misuse or abuse of controlled equipment; and ensuring LEA compliance with civil rights requirements resulting from receipt of Federal financial assistance.

The Department is prepared to make any changes to the program as a result of changes to the authorizing statute or based on recommendations made by the working group and approved by the President.

After the 60-day public comment period for the interim final rule, minor administrative edits were made to provide clarity or delete unnecessary, confusing language in the regulatory text. In § 273.3 and § 273.12 the definitions for hazardous waste and qualified recycling programs were modified; the web link in § 273.6(a)(3) was corrected; language in § 273.7(b)(5)(ii) was deleted; language in § 273.6(f)(4), § 273.6(f)(6), § 273.10(b)(1), § 273.10(b)(3) and § 273.15(a)(3)(i)–(iii), was modified; and the language in § 273.14(b)(3) and (4) was added.

IV. Regulatory Procedures

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

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

Sec. 202, Pub. L. 104–4, ''Unfunded Mandates Reform Act''

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately $141 million. This final rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

The Department of Defense certifies that this final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

Sections 273.15(a)(6)(i)(E)(*2*) and 273.15(a)(6)(i)(D) of this final rule contain information collection requirements. As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), DoD has submitted an information clearance package to the Office of Management and Budget for review. In response to DoD's invitation in the Interim Final Rule to comment on any potential paperwork burden associated with this rule, no comments were received.

Executive Order 13132, ''Federalism''

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule will not have a substantial effect on State and local governments.

List of Subjects in 32 CFR Part 273

Defense materiel, Military arms sales, Waste treatment and disposal.

Accordingly, the interim rule adding 32 CFR part 273 which was published at 79 FR 78144, December 29, 2014, is adopted as a final rule with the following changes. Part 273 is revised to read as follows:

PART 273—DEFENSE MATERIEL DISPOSITION

Subpart A—Disposal Guidance and Procedures

Sec.

Subpart B—Reutilization, Transfer, and Sale of Property

Authority: 10 U.S.C. 2194, 2208, 2557, 2572, 2576, 2576a, 2576b, 2577, 4683, 7306, 7545; 15 U.S.C. 3710(i); 22 U.S.C. 2151, 2321b, 2321j, 2751, and 2778 *et seq.;* 40 U.S.C. subtitle I and sections 101, 541 *et seq.,*

and 701; 42 U.S.C. 3015 and 3020; and 42 U.S.C. Chapter 68.

Subpart A—Disposal Guidance and Procedures

§ 273.1 Purpose.

(a) This part is composed of several subparts, each containing its own purpose. In accordance with the authority in DoD Directive 5134.12, ''Assistant Secretary of Defense for Logistics and Materiel Readiness (ASD(L&MR))'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/513412p.pdf*); DoD Instruction 4140.01, ''Supply Chain Materiel Management Policy'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/414001p.pdf*); and DoD Instruction 4160.28, ''DoD Demilitarization (DEMIL) Program'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/416028p.pdf*), this part:

(1) Prescribes uniform procedures for the disposition of DoD personal property.

(2) Establishes the sequence of processes for disposition of personal property of the DoD Components.

(b) This subpart:

(1) Implements the statutory authority and regulations under which DoD personal property disposal takes place, as well as the scope and applicability for the program.

(2) Defines the responsibilities of personnel and agencies involved in the Defense Materiel Disposition Program.

(3) Provides procedures for disposal of excess property and scrap.

(4) Provides procedures for property donations, loans, and exchanges.

§ 273.2 Applicability.

(a) This subpart applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this subpart as the ''DoD Components'').

(b) If a procedural conflict exists, these references take precedence:

(1) 41 CFR chapters 101 and 102 (also known as the Federal Property Management Regulations and Federal Management Regulation (FPMR and FMR)).

(2) 40 U.S.C. subtitle I, also known as the Federal Property and Administrative Services Act.

§ 273.3 Definitions.

Unless otherwise noted, these terms and their definitions are for the purpose of this subpart.

Abandonment and destruction (A/D). A method for handling property that:

(1) Is abandoned and a diligent effort to determine the owner is unsuccessful.

(2) Is uneconomical to repair or the estimated costs of the continued care and handling of the property exceeds the estimated proceeds of sale.

(3) Has an estimated cost of disposal by A/D that is less than the net sales cost.

Accountability. The obligation imposed by law, lawful order, or regulation, accepted by a person for keeping accurate records to ensure control of property, documents, or funds, with or without possession of the property. The person who is accountable is concerned with control while the person who has possession is responsible for custody, care, and safekeeping.

Acquisition cost. The amount paid for property, including transportation costs, net any trade and cash discounts. Also see standard price.

Ammunition. Generic term related mainly to articles of military application consisting of all kinds of bombs, grenades, rockets, mines, projectiles, and other similar devices or contrivances.

Automatic identification technology (AIT). A suite of technologies enabling the automatic capture of data, thereby enhancing the ability to identify, track, document, and control assets (*e.g.* materiel), deploying and redeploying forces, equipment, personnel, and sustainment cargo. AIT encompasses a variety of data storage or carrier technologies, such as linear bar codes, two-dimensional symbols (PDF417 and Data Matrix), magnetic strips, integrated circuit cards, optical laser discs (optical memory cards or compact discs), satellite tracking transponders, and radio frequency identification tags used for marking or ''tagging'' individual items, equipment, air pallets, or containers. Known commercially as automatic identification data capture.

Batchlot. The physical grouping of individual receipts of low-dollar-value property. The physical grouping consolidates multiple disposal turn-in documents (DTIDs) under a single cover DTID. The objective of batchlotting is to reduce the time and costs related to physical handling and administrative processes required for receiving items individually. The cover DTID establishes accountability in the accountable record and individual line items lose their identity.

Bid. A response to an offer to sell that, if accepted, would bind the bidder to the terms and conditions of the contract (including the bid price).

Bidder. Any entity that is responding to or has responded to an offer to sell.

Care and handling. Includes packing, storing, handling, and conserving excess, surplus, and foreign excess property. In the case of property that is dangerous to public health, safety, or the environment, this includes destroying or rendering such property harmless.

Commercial off the shelf (COTS) software. Software that is available through lease or purchase in the commercial market. Included in COTS are the operating system software that runs on the information technology equipment and other significant software purchased with a license that supports system or customer requirements.

Commerce control list (CCL) items (formerly known as strategic list item). Commodities, software, and technology subject to export controls in accordance with Export Administration Regulations (EAR) in 15 CFR parts 730 through 774. The EAR contains the CCL and is administered by the Bureau of Industry and Security, Department of Commerce (DOC).

Component. An item that is useful only when used in conjunction with an end item. Components are also commonly referred to as assemblies. For purposes of this definition an assembly and a component are the same. There are two types of components: Major components and minor components. A major component includes any assembled element which forms a portion of an end item without which the end item is inoperable. For example, for an automobile, components will include the engine, transmission, and battery. If you do not have all those items, the automobile will not function, or function as effectively. A minor component includes any assembled element of a major component. Components consist of parts. References in the CCL to components include both major components and minor components.

Container. Any portable device in which a materiel is stored, transported, disposed of, or otherwise handled, including those whose last content was a hazardous or an acutely hazardous material, waste, or substance.

Continental United States (CONUS). Territory, including the adjacent territorial waters, located within the North American continent between Canada and Mexico (comprises 48 States and the District of Columbia).

Controlled substances. (1) Any narcotic, depressant, stimulant, or hallucinogenic drug or any other drug or other substance or immediate precursor included in 21 U.S.C. 801. Exempted chemical preparations and mixtures and excluded substances are listed in 21 CFR part 1308.

(2) Any other drug or substance that the United States Attorney General determines to be subject to control in accordance with 21 CFR part 1308.

(3) Any other drug or substance that, by international treaty, convention, or protocol, is to be controlled by the United States.

Counterfeit. A counterfeit part is one whose identity has been deliberately altered, misrepresented, or is offered as an unauthorized product substitution.

Defective property. An item, part, or component that does not meet military, Federal, or commercial specifications as required by military procurement contracts because of unserviceability, finite life, or product quality deficiency and is determined to be unsafe for use. Defective property may be dangerous to public health or safety by virtue of latent defects. These defects are identified by technical inspection methods; or condemned by maintenance or other authorized activities as a result of destructive and nondestructive test methods such as magnetic particle, liquid penetrant, or radiographic testing, which reveal defects not apparent from normal visual inspection methods.

Defense Logistics Agency Disposition Services Automated Information System (DAISY). An automated property accounting management data system designed to process property through the necessary disposal steps and account for excess, surplus, and foreign excess personal property (FEPP) from receipt to final disposal.

Demilitarization. The act of eliminating the functional capabilities and inherent military design features from DoD personal property. Methods and degree range from removal and destruction of critical features to total destruction by cutting, crushing, shredding, melting, burning, etc. DEMIL is required to prevent property from being used for its originally intended purpose and to prevent the release of inherent design information that could be used against the United States. DEMIL applies to material in both serviceable and unserviceable condition.

Disposal. End-of-life tasks or actions for residual materials resulting from demilitarization or disposition operations.

Disposition. The process of reusing, recycling, converting, redistributing, transferring, donating, selling, demilitarizing, treating, destroying, or fulfilling other end of life tasks or actions for DoD property. Does not include real (real estate) property.

Defense Logistics Agency (DLA) Disposition Services. The organization provides DoD with worldwide reuse, recycling and disposal solutions that focus on efficiency, cost avoidance and compliance.

DLA Disposition Services site. The DLA Disposition Services office that has accountability for and control over disposable property. May be managed in part by a commercial contractor. The term is applicable whether the disposal facility is on a commercial site or a Government installation and applies to both Government and contractor employees performing the disposal mission.

DoD Activity Address Code (DoDAAC). A 6-digit code assigned by the Defense Automatic Addressing Service to provide a standardized address code system for identifying activities and for use in transmission of supply and logistics information that supports the movement of property.

DoD Item Unique Identification (IUID) Registry. The DoD data repository that receives input from both industry and Government sources and provides storage of, and access to, data that identifies and describes tangible Government personal property.

Donation. The act of providing surplus personal property at no charge to a qualified donation recipient, as allocated by the General Services Administration (GSA).

Donation recipient. Any of the following entities that receive federal surplus personal property through State agencies for surplus property (SASP):

(1) A Service educational activity (SEA).

(2) A public agency that uses surplus personal property to carry out or promote one or more public purposes. (Public airports are an exception and are only considered donation recipients when they elect to receive surplus property through a SASP, but not when they elect to receive surplus property through the Federal Aviation Administration (FAA).)

(3) An eligible nonprofit tax-exempt educational or public health institution (including a provider of assistance to homeless or impoverished families or individuals).

(4) A State or local government agency, or a nonprofit organization or institution, that receives funds appropriated for a program for older individuals.

Educational institution. An approved, accredited, or licensed public or nonprofit institution or facility, entity, or organization conducting educational programs, including research for any such programs, such as a childcare center, school, college, university, school for the mentally handicapped, school for the physically handicapped, or an educational radio or television station.

Excess personal property.

(1) *Domestic excess.* Government personal property that the United States and its territories and possessions, applicable to areas covered by GSA (*i.e.,* the 50 States, District of Columbia, Puerto Rico, American Samoa, Guam, Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and the U.S. Virgin Islands), consider excess to the needs and mission requirements of the United States.

(2) *DoD Component excess.* Items of DoD Component owned property that are not required for their needs and the discharge of their responsibilities as determined by the head of the Service or Agency.

(3) *Foreign excess personal property (FEPP).* U.S.-owned excess personal property that is located outside the zone of interior (ZI). This property becomes surplus and is eligible for donation and sale as described in § 273.7.

Exchange. Replace personal property by trade or trade-in with the supplier of the replacement property. To exchange non-excess, non-surplus personal property and apply the exchange allowance or proceeds of sale in whole or in part payment for the acquisition of similar property. For example, the replacement of a historical artifact with another historical artifact by trade; or to exchange an item of historical property or goods for services based on the fair market value of the artifact.

Federal civilian agency (FCA). Any non-defense executive agency (*e.g.* DoS, Department of Homeland Security) or any establishment in the legislative or judicial branch of the U.S. Government (USG) (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his or her direction).

FEPP. See excess personal property.

Firearm. Any weapon (including a starter gun) that will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device. The term does not include an antique firearm.

Flight safety critical air parts (FSCAP). Any aircraft part, assembly, or installation containing a critical characteristic whose failure, malfunction, or absence could cause a catastrophic failure resulting in loss or serious damage to the aircraft or an uncommanded engine shutdown, resulting in an unsafe condition.

Foreign purchased property. Property paid for by foreign countries, but where ownership is retained by the United States.

Friendly foreign government. For purposes of trade security controls (TSC), governments of countries other than those designated as restricted parties.

Generating activity (''generator''). The activity that declares personal property excess to its needs, *e.g.* DoD installations, activities, contractors, or FCAs.

Government-furnished material (GFM). Property provided by the U.S. Government for the purpose of being incorporated into or attached to a deliverable end item or that will be consumed or expended in performing a contract. Government-furnished materiel includes assemblies, components, parts, raw and process material, and small tools and supplies that may be consumed in normal use in performing a contract. Government-furnished materiel does not include material provided to contractors on a cash-sale basis nor does it include military property, which are government-owned components, contractor acquired property (as specified in the contract), government furnished equipment, or major end items being repaired by commercial contractors for return to the government.

GSAXcess®. A totally web-enabled platform that eligible customers use to access functions of GSAXcess® for reporting, searching, and selecting property. This includes the entry site for the Federal Excess Personal Property Utilization Program and the Federal Surplus Personal Property Donation Program operated by the GSA.

Historical artifact. Items (including books, manuscripts, works of art, drawings, plans, and models) identified by a museum director or curator as significant to the history of that department, acquired from approved sources, and suitable for display in a military museum. Generally, such determinations are based on the item's association with an important person, event, or place; because of traditional association with an important person, event, or place; because of traditional association with a military organization; or because it is a representative example of military equipment or represents a significant technological contribution to military science or equipment.

Hazardous material (HM). (1) In the United States, any material that is capable of posing an unreasonable risk to health, safety, and property during transportation. All HM appears in the HM Table at 49 CFR 172.101.

(2) Overseas, HM is defined in the applicable final governing standards or overseas environmental baseline guidance document, or host nation laws and regulations.

Hazardous property (HP). (1) A composite term used to describe DoD excess property, surplus property, and FEPP, which may be hazardous to human health, human safety, or the environment. Various Federal, State, and local safety and environmental laws regulate the use and disposal of hazardous property.

(2) In more technical terms, HP includes property having one or more of the following characteristics:

(i) Has a flashpoint below 200 degrees Fahrenheit (93 degrees Celsius) closed cup, or is subject to spontaneous heating or is subject to polymerization with release of large amounts of energy when handled, stored, and shipped without adequate control.

(ii) Has a threshold limit value equal to or below 1,000 parts per million (ppm) for gases and vapors, below 500 milligram per cubic meter (mg/m^3) for fumes, and equal to or less than 30 million particles per cubic foot (mppcf) or 10 mg/m^3 for dusts (less than or equal to 2.0 fibers/cc greater than 5 micrometers in length for fibrous materials).

(iii) Causes 50 percent fatalities to test animals when a single oral dose is administered in doses of less than 500 mg per kilogram of test animal weight.

(iv) Is a flammable solid as defined in 49 CFR 173.124, or is an oxidizer as defined in 49 CFR 173.127, or is a strong oxidizing or reducing agent with a half cell potential in acid solution of greater than +1.0 volt as specified in Latimer's table on the oxidation-reduction potential.

(v) Causes first-degree burns to skin in short-time exposure, or is systematically toxic by skin contact.

(vi) May produce dust, gases, fumes, vapors, mists, or smoke with one or more of the above characteristics in the course of normal operations.

(vii) Produces sensitizing or irritating effects.

(viii) Is radioactive.

(ix) Has special characteristics which, in the opinion of the manufacturer, could cause harm to personnel if used or stored improperly.

(x) Is hazardous in accordance with Occupational Health and Safety Administration, 29 CFR part 1910.

(xi) Is hazardous in accordance with 29 CFR part 1910.

(xii) Is regulated by the EPA in accordance with 40 CFR parts 260 through 280.

Hazardous waste (HW). An item that is regulated pursuant to 42 U.S.C. 6901 or by State regulation as an HW. HW is defined federally at 40 CFR part 261. Overseas, HW is defined in the applicable final governing standards or overseas environmental baseline guidance document, or host nation laws and regulations.

Holding agency. The Federal agency that is accountable for, and generally has possession of, the property involved.

Hold harmless. A promise to pay any costs or claims which may result from an agreement.

Information technology. Any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission or reception of data or information by the DoD Component. Includes computers, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related sources. Does not include any equipment that is acquired by a Federal contractor incidental to a Federal contract. Equipment is ''used'' by a DoD Component if the equipment is used by the DoD Component directly or is used by a contractor under a contract with the DoD Component that:

(1) Requires the use of such equipment.

(2) Requires the use to a significant extent of such equipment in the performance of a service or the furnishing of a product.

Installation. A military facility together with its buildings, building equipment, and subsidiary facilities such as piers, spurs, access roads, and beacons.

International organizations. For TSC purposes, this term includes: Columbo Plan Council for Technical Cooperation in South and Southeast Asia; European Atomic Energy Community; Indus Basin Development; International Atomic Energy; International Red Cross; NATO; Organization of American States; Pan American Health Organization; United Nations; UN Children's Fund; UN Development Program; UN Educational, Scientific, and Cultural Organization; UN High Commissioner for Refugees Programs; UN Relief and Works Agency

for Palestine Refugees in the Near East; World Health Organization; and other international organizations approved by a U.S. diplomatic mission.

Interrogation. A communication between two or more ICPs, other DoD activities, and U.S. Government agencies to determine the current availability of an item or suitable substitute for a needed item before procurement or repair.

Interservice. Action by one Military Department or Defense Agency ICP to provide materiel and directly related services to another Military Department or Defense Agency ICP (either on a recurring or nonrecurring basis).

Inventory adjustments. Changes made in inventory quantities and values resulting from inventory recounts and validations.

Inventory control point (ICP). An organizational unit or activity within the DoD supply system that is assigned the primary responsibility for the materiel management of a group of items either for a particular Military Department or for the DoD as a whole. In addition to materiel manager functions, an ICP may perform other logistics functions in support of a particular Military Department or for a particular end item (*e.g.,* centralized computation of retail requirements levels and engineering tasks associated with weapon system components).

Item unique identification (IUID). A system of establishing globally widespread unique identifiers on items of supply within the DoD, which serves to distinguish a discrete entity or relationship from other like and unlike entities or relationships. AIT is used to capture and communicate IUID information.

Line item. A single line entry on a reporting form or sale document that indicates a quantity of property located at any one activity having the same description, condition code, and unit cost.

Line item value (for reporting and other accounting and approval purposes). Quantity of a line item multiplied by the standard price.

Marketing. The function of directing the flow of surplus and FEPP to the buyer, encompassing all related aspects of merchandising, market research, sale promotion, advertising, publicity, and selling.

Material potentially presenting an explosive hazard (MPPEH). Material owned or controlled by the Department of Defense that, prior to determination of its explosives safety status, potentially contains explosives or munitions (*e.g.,* munitions containers and packaging material; munitions debris remaining after munitions use, demilitarization, or disposal; and range-related debris) or potentially contains a high enough concentration of explosives that the material presents an explosive hazard (*e.g.,* equipment, drainage systems, holding tanks, piping, or ventilation ducts that were associated with munitions production, demilitarization, or disposal operations). Excluded from MPPEH are munitions within the DoD-established munitions management system and other items that may present explosion hazards (*e.g.,* gasoline cans and compressed gas cylinders) that are not munitions and are not intended for use as munitions.

Metalworking machinery. A category of plant equipment consisting of power driven nonportable machines in Federal Supply Classification Code (four digits) (FSC) 3411 through 3419 and 3441 through 3449, which are used or capable of use in the manufacture of supplies or equipment, or in the performance of services, or for any administrative or general plant purpose.

Munitions list items (MLI). Any item contained on the U.S. Munitions List (USML) in 22 CFR part 121. Defense articles, associated technical data (including software), and defense services recorded or stored in any physical form, controlled for export and permanent import by 22 CFR parts 120 through 130. 22 CFR part 121, which contains the USML, is administered by the DoS Directorate of Defense Trade Controls.

Museum, DoD or Service. An appropriated fund entity that is a permanent activity with a historical collection, open to both the military and civilian public at regularly scheduled hours, and is in the care of a professional qualified staff that performs curatorial and related historical duties full time.

Mutilation. A process that renders materiel unfit for its originally intended purposes by cutting, tearing, scratching, crushing, breaking, punching, shearing, burning, neutralizing, etc.

NAF property. Property purchased with NAFs, by religious activities or nonappropriated morale welfare or recreational activities, post exchanges, ships stores, officer and noncommissioned officer clubs, and similar activities. Such property is not Federal property.

Narcotics. See controlled substances.

National stock number (NSN). The 13-digit stock number replacing the 11-digit federal stock number. It consists of the 4-digit federal supply classification code and the 9-digit national item identification number. The national item identification number consists of a 2-digit National Codification Bureau number designating the central cataloging office (whether North Atlantic Treaty Organization or other friendly country) that assigned the number and a 7-digit (xxx-xxxx) nonsignificant number. Arrange the number as follows: 9999–00–999–9999.

Nonappropriated fund (NAF). Funds generated by DoD military and civilian personnel and their dependents and used to augment funds appropriated by Congress to provide a comprehensive, morale building, welfare, religious, educational, and recreational program, designed to improve the well-being of military and civilian personnel and their dependents.

Nonprofit institution. An institution or organization, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held to be tax exempt under the provisions of 26 U.S.C. 501, also known as the Internal Revenue Code of 1986.

Nonsalable materiel. Materiel that has no reutilization, transfer, donation, or sale value as determined by the DLA Disposition Services site, but is not otherwise restricted from disposal by U.S. law or Federal or military regulations.

Obsolete combat materiel. Military equipment once used in a primarily combat role that has been phased out of operational use; if replaced, the replacement items are of a more current design or capability.

Ordnance. Explosives, chemicals, pyrotechnics, and similar stores, *e.g.,* bombs, guns and ammunition, flares, smoke, or napalm.

ppm. Unit of concentration by volume of a specific substance.

Personal property. Property except real property. Excludes records of the Federal Government, battleships, cruisers, aircraft carriers, destroyers, and submarines.

Pilferable materiel. Materiel having a ready resale value or application to personal possession, which is especially subject to theft.

Plant equipment. Personal property of a capital nature (including equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose. It does not include special tooling or special test equipment.

Precious metals. Gold, silver, and the platinum group metals (platinum,

palladium, iridium, rhodium, osmium, and ruthenium).

Precious Metals Recovery Program (PMRP). A DoD program for identification, accumulation, recovery, and refinement of precious metals from excess and surplus end items, scrap, hypo solution, and other precious metal bearing materiel for authorized internal purposes or as GFM.

Pre-receipt. Documentation processed prior to physically transferring or turning the property into a DLA Disposition Services site.

Privacy Act property. Any document or other information about an individual maintained by the agency, whether collected or grouped, including but not limited to, information regarding education, financial transactions, medical history, criminal or employment history, or other personal information containing the name or other personal identification number, symbol, etc., assigned to such individual.

Privately owned personal property. Personal effects of DoD personnel (military or civilian) that are not, nor will ever become, Government property unless the owner (or heirs, next of kin, or legal representative of the owner) executes a written and signed release document unconditionally giving the U.S. Government all right, title, and interest in the privately owned property.

Public agency. Any State, political subdivision thereof, including any unit of local government or economic development district; or any department, agency, instrumentality thereof, including instrumentalities created by compact or other agreement between States or political subdivisions, multi-jurisdictional substate districts established by or under State law; or any Indian tribe, band, group, pueblo, or community located on a State reservation. (See § 273.8 regarding donations made through State agencies.)

Qualified recycling programs (QRP). Organized operations that require concerted efforts to cost effectively divert or recover scrap or waste, as well as efforts to identify, segregate, and maintain the integrity of recyclable materiel to maintain or enhance its marketability. If administered by a DoD Component other than DLA, a QRP includes adherence to a control process providing accountability for all materials processed through program operations.

Reclamation. A cost avoidance or savings measure to recover useful (serviceable) end items, repair parts, components, or assemblies from one or more principal end items of equipment or assemblies (usually supply condition codes (SCCs) listed in DLM 4000.25–2 as SCC H for unserviceable (condemned) materiel, SCC P for unserviceable (reclamation) materiel, and SCC R for suspended (reclaimed items, awaiting condition determination) materiel) for the purpose of restoration to use through replacement or repair of one or more unserviceable, but repairable principal end items of equipment or assemblies (usually SCCs listed in DLM 4000.25–2 as SCC E for unserviceable (limited restoration) materiel, SCC F for unserviceable (reparable) materiel, and SCC G for unserviceable (incomplete) materiel). Reclamation is preferable prior to disposition (*e.g.,* DLA Disposition Services site turn-in), but end items or assemblies may be withdrawn from DLA Disposition Services sites for such reclamation purposes.

Restricted parties. Those countries or entities that the Department of State (DoS), DOC, or Treasury have determined to be prohibited or sanctioned for the purpose of export, sale, transfer, or resale of items controlled on the United States Munitions List (USML) or Commerce Control List. A consolidated list of prohibited entities or destinations for which transfers may be limited or barred, may be found at: *http://export.gov/ecr/eg_main_023148.asp.*

Reutilization. The act of re-issuing FEPP and excess property to DoD Components. Also includes qualified special programs (*e.g.,* Law Enforcement Agency (LEA), Humanitarian Assistance Program, Military Affiliate Radio System (MARS)) pursuant to applicable enabling statutes.

Salvage. Personal property that has some value in excess of its basic material content, but is in such condition that it has no reasonable prospect of use as a unit for the purpose for which it was originally intended, and its repair or rehabilitation for use as a unit is impracticable.

Scrap. Recyclable waste and discarded materials derived from items that have been rendered useless beyond repair, rehabilitation, or restoration such that the item's original identity, utility, form, fit and function have been destroyed. Items can be classified as scrap if processed by cutting, tearing, crushing, mangling, shredding, or melting. Intact or recognizable USML or CCL items, components, and parts are not scrap. 41 CFR 102–36.40 and 15 CFR 770.2 provide additional information on scrap.

Screening. The process of physically inspecting property or reviewing lists or reports of property to determine whether it is usable or needed.

Sensitive items. Materiel that requires a high degree of protection and control due to statutory requirements or regulations, such as narcotics and drug abuse items; precious metals; items of high value; items that are highly technical, or of a hazardous nature; non-nuclear missiles, rockets, and explosives; small arms, ammunition and explosives, and demolition material.

Service educational activity (SEA). Any educational activity that meets specified criteria and is formally designated by the Department of Defense as being of special interest to the Military Services. Includes educational activities such as maritime academies or military, naval, or Air Force preparatory schools, junior colleges, and institutes; senior high school-hosted Junior Reserve Officer Training Corps; and nationally organized youth groups. The primary purpose of such entities is to offer courses of instruction devoted to the military arts and sciences.

Small arms/light weapons. Man-portable weapons made or modified to military specifications for use as lethal instruments of war that expel a shot, bullet, or projectile by action of an explosive. Small arms are broadly categorized as those weapons intended for use by individual members of armed or security forces. They include handguns; rifles and carbines; sub-machine guns; and light machine guns. Light weapons are broadly categorized as those weapons designed for use by two or three members of armed or security forces serving as a crew, although some may be used by a single person. They include heavy machine guns; hand-held under-barrel and mounted grenade launchers; portable anti-aircraft guns; portable anti-tank guns; recoilless rifles; man-portable launchers of missile and rocket systems; and mortars.

Standard price. The price customers are charged for a DoD managed item (excluding subsistence), which remains constant throughout a fiscal year. The standard price is based on various factors which include the latest acquisition price of the item plus surcharges or cost recovery elements for transportation, inventory loss, obsolescence, maintenance, depreciation, and supply operations.

State agencies for surplus property (SASP). The agency designated under State law to receive Federal surplus personal property for distribution to eligible donation recipients within the States as provided for in 40 U.S.C. 549.

State or local government. A State, territory, or possession of the United States, the District of Columbia, American Samoa, Guam, Puerto Rico, Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, and any political subdivision or instrumentality thereof.

Supply condition codes (SCC). Code used to classify materiel in terms of readiness for issue and use or to identify action underway to change the status of materiel. These codes are assigned by the Military Departments or Defense Agencies. DLA Disposition Services may change a SCC if there is an appearance of an improperly assigned code and the property is of a non-technical nature. If change is not appropriate or property is of a technical nature, DLA Disposition Services sites may challenge a suspicious SCC.

Surplus personal property. Excess personal property no longer required by the Federal agencies, as determined by the Administrator of General Services. Applies to surplus personal property in the United States, American Samoa, Guam, Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

Trade security controls (TSC). Policy and procedures, in accordance with DoD Instruction 2030.08, designed to prevent the sale or shipment of USG materiel to any person, organization, or country whose interests are unfriendly or hostile to those of the United States and to ensure that the disposal of DoD personal property is performed in compliance with U.S. export control laws and regulations, the International Traffic in Arms Regulations (ITAR) in 22 CFR parts 120 through 130, and the EAR in 15 CFR parts 730 through 774.

Transfer. The act of providing FEPP and excess personal property to Federal civilian agencies (FCAs) as stipulated in the FMR. Property is allocated by the GSA. When a line item is less than $10,000, an FCA may coordinate allocation to another FCA directly.

Trash. Post-consumer refuse, waste and food by-products such as litter, rubbish, cooked grease, bones, fats, and meat trimmings.

Uniform Materiel Movement and Issue Priority System (UMMIPS). System to ensure that requirements are processed in accordance with the mission of the requiring activity and the urgency of need, and to establish maximum uniform order and materiel movement standard.

Unique item identifier (UII). A set of data elements marked on an item that is globally unique and unambiguous. The term includes a concatenated UII or a DoD-recognized unique identification equivalent.

Unsalable materiel. Materiel for which sale or other disposal is prohibited by U.S. law or Federal or military regulations.

Usable property. Commercial and military type property other than scrap and waste.

Veterans' organization. An organization composed of honorably discharged soldiers, sailors, airmen, and marines, which is established as a veterans' organization and recognized as such by the U.S. Department of Veterans Affairs.

Zone of interior (ZI). The United States and its territories and possessions, applicable to areas covered by GSA and where excess property is considered domestic excess. Includes the 50 States, District of Columbia, Puerto Rico, American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands.

§ 273.4 Policy.

It is DoD policy consistent with 41 CFR chapters 101 and 102 that excess DoD property must be screened and redistributed among the DoD Components, and reported as excess to the GSA. Pursuant to 40 U.S.C. 701, DoD will efficiently and economically dispose DoD FEPP.

§ 273.5 Responsibilities.

(a) The Assistant Secretary of Defense for Logistics and Materiel Readiness (ASD(L&MR)), under the authority, direction, and control of the USD(AT&L), and in accordance with DoD Directive 5134.12:

(1) Develops DoD materiel disposition policies, including policies for FEPP.

(2) Oversees the effective implementation of the DoD materiel disposition program.

(3) Approves policy changes as appropriate to support contingency operations.

(4) Approves national organizations for special interest consideration as SEAs, and approve categories of property considered appropriate, usable, and necessary for transfer to SEAs.

(b) The Director, Defense Logistics Agency (DLA), under the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, through the Assistant Secretary of Defense for Logistics and Materiel Readiness (ASD(L&MR)), and in addition to the responsibilities in paragraph (c) of this section:

(1) Provides agency-level command and control and administers the worldwide Defense Materiel Disposition Program.

(2) Implements guidance issued by the ASD(L&MR) or other organizational elements of the OSD and establishes system concepts and requirements, resource management, program guidance, budgeting and funding, training and career development, management review and analysis, internal control measures, and crime prevention for the Defense Materiel Disposition Program.

(3) Chairs the Disposal Policy Working Group (DPWG).

(4) Provides direction to the DLA Disposition Services on implementing the worldwide defense materiel disposition program.

(5) Provides direction to the DLA inventory control points (ICPs) on the cataloging of items in the Federal Logistics Information System (FLIS) as outlined in DoD 4100.39–M, ''Federal Logistics Information System (FLIS) Procedures Manual-Glossary and Volumes 1–16'' (available at *http://www.dtic.mil/whs/directives/corres/html/410039m.html*). This is done to prevent the unauthorized disposition or release of items within DoD, other federal civilian agencies, or release into commerce.

(6) Promotes maximum reuse of FEPP, excess, and surplus property. Pursues all possible avenues to sponsor or endorse reuse of excess DoD property and preclude unnecessary purchases.

(7) Directs the DLA Disposition Services communications with the DoD Components regarding changes in service delivery processes or plans that will affect disposal support provided. In overseas locations, these communications will include geographic Combatant Commanders, U.S. Chiefs of Mission, and the in-country security assistance offices.

(8) Accommodates contingency operation requirements. Directs the DLA support team to determine any needed deviations from standard disposal processing guidance and communicates approved temporary changes to the Military Departments and DLA Disposition Services.

(9) Ensures maximum compatibility between documentation, procedures, codes, and formats used in materiel disposition systems and the Military Departments' supply systems.

(10) Programs, budgets, funds, accounts, allocates and controls personnel, spaces, and other resources for its respective activities.

(11) Annually provides to GSA a report of property transferred to non-federal recipients in accordance with 41 CFR 102–36.295.

(12) Assumes the worldwide disposal of all DoD HP except for those categories

specifically designated to remain the responsibility of the Military Department or Defense Agency as described in DoD Manual 4160.21, Volume 4.

(13) Ensures property disposal training courses are available (*e.g.*, at DLA Training Center) for all personnel associated with the disposal program.

(14) Ensures DLA Disposition Services follows the DoD disposal hierarchy with landfill disposal as a last resort.

(c) The DoD Components Heads:

(1) Recommend Defense Materiel Disposition Program policy changes to the ASD(L&MR).

(2) Recommend Defense Materiel Disposition Program procedural changes to the Director, DLA, and provide information copies to the ASD(L&MR).

(3) Assist the Director, DLA, upon request, to resolve matters of mutual concern.

(4) Treat the disposal of DoD property as an integral part of DoD Supply Chain Management; ensure that disposal actions and costs are a part of each stage of the supply chain management of items and that disposal of property is a planned event at all levels of their organizations.

(5) Provide the Director, DLA, with mutually agreed-upon data necessary to administer the Defense Materiel Disposition Program.

(6) Participate in the DoD PMRP and promote maximum reutilization of FEPP, excess, and surplus property and fine precious metals for internal use or as GFM.

(7) Nominate to the ASD(L&MR) national organizations for special interest consideration as SEAs; approve schools (non-national organizations) as SEAs; and recommend to the ASD(L&MR) categories of property considered appropriate, usable, and necessary for transfer to SEAs.

(8) Provide administrative and logistics support, including appropriate facilities, for the operations of tenant and related off-site DLA Disposition Services field activities under inter-Service support agreements (ISSAs).

(9) For property not explicitly identified in this part, follow Service-unique regulations to dispose of and maintain accountability of property. Ensure all accountable records associated with the disposal of FEPP, excess, and surplus property are established and updated to reflect supply status and ensure audit ability in accordance with DoD Instruction 5000.64, ''Accountability and Management of DoD Equipment and Other Accountable Property'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/500064p.pdf*). This requirement also applies to modified processes that may be developed for contingency operations.

(10) Ensure completion of property disposition (reutilization and marketing) training courses, as appropriate.

(11) Administer reclamation programs and accomplish reclamation from excess materiel.

(12) Establish and administer disposal accounts, as jointly agreed to by DLA and the Military Departments, to support the demilitarization (DEMIL) and reclamation functions performed by the Military Departments.

(13) Dispose of surplus merchant vessels or vessels of 1,500 gross tons or more, capable of conversion to merchant use, through the Federal Maritime Administration, U.S. Department of Transportation, by forwarding a ''Report of Excess Personal Property'' Standard Form 120 to GSA, in accordance with the procedures in 41 CFR chapters 101 and 102. For vessels explicitly excluded by 41 CFR chapters 101 and 102, follow procedures in DoD 4160.28–M, Volumes 1–3, ''Defense Demilitarization: Program Administration, Demilitarization Coding, Procedural Guidance'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/416028m_vol1.pdf*, *http://www.dtic.mil/whs/directives/corres/pdf/416028m_vol2.pdf*, *http://www.dtic.mil/whs/directives/corres/pdf/416028m_vol3.pdf*), *i.e.*, battleships, cruisers, aircraft carriers, destroyers, or submarines.

(14) Dispose of HP specifically designated as requiring DoD Component processing.

(15) Request DLA Disposition Services provide sales services, as needed, for recyclable marketable materials generated as a result of resource recovery programs through the DoD Component QRP in accordance with the procedures in § 273.7.

(16) Consider public donation if applicable before landfill disposal and monitor, with DLA Disposition Services Site personnel, all property sent to landfills to ensure no economically salable or recyclable property is discarded.

(17) Report, accurately identify on approved turn in documents, and turn in all authorized scrap generations to servicing DLA Disposition Services sites.

(18) Update the DoD IUID Registry upon the materiel disposition of uniquely identified items in accordance with the procedures in § 273.9.

(19) Improve disposal policies, training, and procedural implementation among the DoD Components and Federal civilian agencies through membership on the DPWG.

§ 273.6 Procedures.

(a) *Personal property disposition.* The general guidelines and procedures for property disposition are:

(1) 41 CFR chapters 101 and 102 implements 40 U.S.C. subtitle I and section 101 which established the Personal Property Disposition Program. 41 CFR chapter 101 and other laws and regulations apply to the disposition of FEPP, excess, and surplus property. In the event of conflicting guidance, 41 CFR chapters 101 and 102 takes precedence. 41 CFR chapter 102 is the successor regulation to 41 CFR chapter 101, the ''Federal Property Management Regulation''. It updates regulatory policies of 41 CFR chapter 101.

(2) All references to ''days'' are calendar days unless otherwise specified.

(3) The Department of Defense provides guidance for budgeting for the disposal of excess, surplus, and FEPP property through DoD 7000.14–R, ''Department of Defense Financial Management Regulations (FMRs): Volume 12, 'Special Accounts Funds and Programs'; Chapter 7, 'Financial Liability for Government Property Lost, Damaged, Destroyed, or Stolen' '' (*http://comptroller.defense.gov/Portals/45/documents/fmr/Volume_12.pdf*), with updates via program budget decisions. The Service level billing is based on the services turn-in percentage of the Disposition Services workload. As an example, if the Army constitutes 40 percent of the workload the Army will pay 40 percent of the Disposition Services Service-level bill.

(i) Billings are addressed to each Military Department, Defense Agency, and FCA.

(ii) Billing for disposition of excess property depends on decisions made between DLA and the customer: the Military Department, Defense Agency, those sponsoring DoD-related organizations (*e.g.*, Civil Air Patrol, MARS) or FCA.

(b) *Scope and relevancy.* (1) In conjunction with DoD 4160.28–M Volumes 1–3, the provisions of this part apply to service providers, whether they are working at a government facility or at a commercial site, and to contractors to the extent it is stipulated in the performance work statement of the contracts. DoD 4160.28–M and 10 U.S.C. 2576 contain additional specific guidance for property identified as MLI or CCL items.

(2) The procedures in this subpart will be used to the extent possible in all

contingency operations. As appropriate, the ASD(L&MR) will modify policy guidance to support the mission requirements and operational tempo of contingency operations.

(3) This subpart does not govern the disposal of the property described in paragraphs (b)(3)(i), (ii), and (iii) of this section. However, once property in these categories has been altered to remove the inherently sensitive characteristics, it may be processed through a DLA Disposition Services site using an appropriate FSC code for the remaining components.

(i) *Items under management control of the Defense Threat Reduction Agency in Federal Supply Group (FSG) 11.* These items include Department of Energy special design and quality controlled items and all DoD items designed specifically for use on or with nuclear weapons. These items are identified by manufacturers' codes 57991, 67991, 77991, and 87991 in the DLA Logistics Information Service FLIS. These items will be processed in accordance with Air Force Instruction 21–204, ''Nuclear Weapons Maintenance Procedures'' (available at *http://static.e-publishing.af.mil/production/1/af_a4_7/publication/afi21-204/afi21-204.pdf*).

(ii) *Cryptologic and cryptographic materiel.* This materiel must be processed in accordance with Committee on National Security Systems Instruction 4008, ''Program for the Management and Use of National Reserve Information Assurance Security Equipment'' (available at *https://www.cnss.gov/Assets/pdf/CNSSI-4008.pdf*).

(iii) *Naval Nuclear Propulsion Plant materiel.* This materiel must be processed in accordance with Office of the Chief of Naval Operations Instruction (OPNAVINST) N9210.3, ''Safeguarding of Naval Nuclear Propulsion Information (NNPI)'' (available at *http://doni.daps.dla.mil/Directives/09000%20General%20Ship%20Design%20and%20Support/09-200%20Propulsion%20Plants%20Support/N9210.3%20(Unclas%20Portion).pdf*) and 45 Manual NAVSEA S9213–45-Man-000, ''Naval Nuclear Material Management Manual.''

(c) *Objectives.* The objectives of the Defense Materiel Disposition Program are to:

(1) Provide standardized disposition management guidance for DoD excess property and FEPP (including scrap) and HP, by using efficient internal and external processes. The expected outcome includes protecting national security interests, minimizing environmental mishaps, satisfying valid needs by extended use of property, permitting authorized donations, obtaining optimum monetary return to the U.S. Government, and minimizing abandonment or destruction (A/D) of property.

(2) Migrate from legacy transactions with 80 record position formats applicable to military standard system procedures (*e.g.*, Defense Logistics Manual (DLM) 4000.25–1, ''Military Standard Requisitioning and Issue Procedures (MILSTRIP)'' (available at *http://www2.dla.mil/j-6/dlmso/elibrary/Manuals/DLM/MILSTRIP/MILSTRIP.pdf*) and DLM 4000.25–2, ''Military Standard Transaction Reporting and Accounting Procedures (MILSTRAP)'' (available at *http://www2.dla.mil/j-6/dlmso/elibrary/Manuals/DLM/MILSTRAP/MILSTRAP.pdf*) to variable length DLMS transactions as described in DLM 4000.25, ''Defense Logistics Management System (DLMS)'' (available at *http://www2.dla.mil/j-6/dlmso/elibrary/Manuals/DLM/DLM_4000.25_DLMS_Manual_Combined.pdf*) (American National Standards Institute Accredited Standards Committee (ANSI ASC) X12 or equivalent XML schema) to track items throughout the supply chain life cycle. Implementation must be consistent with DoD Directive 8320.02, ''Data Sharing in a Net Centric Department of Defense'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/832002p.pdf*).

(3) Ensure cost-effective disposal of precious metals bearing scrap and end items for the replenishment of valuable resources through the DoD PMRP.

(4) Ensure personal property and related subcomponents are not declared excess and disposed of prior to determining the need for economic recovery.

(5) Encourage Military Departments and Defense Agencies to:

(i) Comply with the spirit and intent of Executive Order 12862, ''Setting Customer Service Standards.''

(ii) Set results-oriented goals, such as delivering customer value that results in improvement of overall Military Department performance.

(iii) Serve the tax payer's interests by ensuring tax money is used wisely and by being responsive and reliable in all dealings with the public.

(d) *Foreign liaison.* (1) Authority for granting visits by foreign nationals representing foreign governments rests with the International Programs Division (J–347) at DLA. Prospective official foreign visitors should submit requests 30 days in advance through their embassy in accordance with procedures in DoD Directive 5230.20, ''Visits and Assignments of Foreign Nationals'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/523020p.pdf*). These requests may require a security clearance from the host Military Department. DLA processes the requests, and will provide written authority to primary-level field activity commanders or DLA Disposition Services site chiefs. Unclassified visits by foreign nationals can be approved for inspections prior to acquiring property through security assistance programs or other programs authorized by statute.

(2) A commander of a DoD activity may authorize foreign nationals and representatives of foreign governments or international organizations to visit a DLA Disposition Services site, except for those foreign nationals and representatives from foreign countries designated as restricted parties in the International Traffic in Arms Regulations (ITAR) in 22 CFR parts 120 through 130 and the EAR in 15 CFR parts 730 through 774.

(3) Visits by foreign nationals for public sales will be at the discretion of the host installation commander in accordance with U.S. export control laws and regulations, the ITAR in 22 CFR parts 120 through 130 and the EAR in 15 CFR parts 730 through 774.

(4) All requests for unclassified information, not previously approved for public release will be referred to the appropriate public affairs office. This includes requests submitted by representatives of foreign governments or representatives of international organizations.

(5) Requests from foreign nationals or representatives from foreign governments of restricted parties will be referred to the appropriate security office.

(6) Release of MLI technical data or CCL items technology will be in accordance with DoD 4100.39–M, DoD 4160.28–M Volumes 1–3, 10 U.S.C. 2576, 22 CFR parts 120 to 130, and 15 CFR parts 730 to 774, DoD Instruction 2040.02, and DoD Instruction 2030.08.

(e) *Training.* Personnel with Materiel Disposition Program responsibilities (DLA Disposition Services employees, ICP integrated materiel managers (IMMs), Reservists, etc.) as well as those DoD-related and non-DoD organizations disposing of excess, surplus, FEPP, and scrap through the Department of Defense, require applicable training in defense materiel disposition policies, procedures, and related technical areas such as safety, environmental protection, DEMIL, TSC, accounting and accountability, administration, or management of those activities.

Required training will be accomplished according to DoD 4160.28–M Volumes 1–3 and DoD Instruction 2030.08, and applicable DoD, DLA, and Military Department training issuances. In addition to formal training, the DLA Disposition Services Web site (*https://www.dispositionservices.dla.mil*) provides guidance on various topics related to materiel disposition.

(f) *DoD Components.* The DoD Components:

(1) Provide administrative and logistics support, including appropriate facilities for the segregation of material according to the established ISSAs.

(i) Establish disposal facilities at suitable locations, separate from host installation active stocks. These areas should permit proper materiel segregation and be convenient to road networks and railroad sidings.

(ii) Approve all facility improvement projects. Identify in the ISSA reimbursable and non-reimbursable host maintenance and repair support, not exceeding that prescribed by regulations of the host activity.

(iii) Fence or otherwise protect the disposal yard to ensure that materiel is safeguarded against theft or pilferage. Security matters identified in ISSAs are covered by security regulations of the DoD Components.

(iv) Provide information security support to DLA Disposition Services field activities through ISSAs, including the retrieval, secure storage, and subsequent determination of the appropriate disposition of classified property found in disposal assets.

(2) Properly containerize and ensure all property turned in to DLA Disposition Services sites is safe to handle and non-leaking to ensure environmental compliance during transport to the DLA Disposition Services site and storage during the disposal process. Drain all fluids from unserviceable vehicles prior to release to disposal and treat fluids according to environmental requirements in accordance with the procedures in Enclosure 3 of DoD Manual 4160.21, Volume 4, ''Defense Materiel Disposition Manual: Instructions for Hazardous Property and Other Special Processing Materiel''.

(3) Ensure HW storage facilities meet all applicable environmental standards and requirements, including 40 CFR parts 262, 264, and 265.

(4) Provide funds for disposal of HP failing reutilization, transfer, donation or sale (RTDS), or if the HP is not eligible for RTDS, that it is disposed of on a DLA disposal service contract. Funding for disposal by the Military Department or Defense Agency also applies in instances when non-regulated waste requires special handling for disposal via disposal service contract, or when special services are requested on the disposal service contract.

(5) Comply with the Defense DEMIL Program in accordance with DoD Instruction 4160.28 and DoD 4160.28–M Volumes 1–3.

(i) Provide proper instructions for DEMIL ''F'' property to the DLA Disposition Services site at the time of physical turn-in or immediately following electronic turn-in in accordance with procedures in Enclosure 5 of DoD Manual 4160.21, Volume 2 and Enclosure 3 of DoD Manual 4160.21, Volume 4 and the procedures on the Army's Integrated Logistics Support Center Web site *https://tulsa.tacom.army.mil/DEMIL.*

(ii) Ship small arms serialized weapons and serialized parts to the Anniston, Alabama, DEMIL Center, as identified on the DLA Disposition Services Web site (*https://www.dispositionservices.dla.mil*). Contact the Anniston center for shipment instructions. All activities generating serialized weapons and serialized weapons parts must report a ''ship'' transaction, using the appropriate DLA Disposition Services DEMIL Center DoDAAC, to the DoD Small Arms/Light Weapons Serialization Program registry.

(6) Implement DoD QRP, as directed by DoD Instruction 4715.4, ''Pollution Prevention'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/471504p.pdf*). Establish QRPs to cost effectively divert or recover scrap or waste from the waste streams, as well as to identify, collect, properly segregate and maintain the integrity of recyclable materials in a way that will maintain or enhance their marketability. Indicate on the turn-in documents that QRP material is identified as such with funds to be deposited to the appropriate budget clearing account.

(7) Implement TSC measures in accordance with DoD Instruction 2030.08 for USML and CCL items and comply with applicable export control regulations and laws.

(g) *DLA Disposition Services.* The DLA Disposition Services will:

(1) Provide Military Departments and Defense Agencies with disposition solutions and best value support for the efficient and timely RTDS or disposal of excess, surplus, and FEPP property. This includes all required training and guidance on programs affecting disposition practices.

(2) Provide visibility and promote maximum reuse of DLA Disposition Services-managed inventory assets. Implement transfer and donation policies and procedures consistent with GSA regulations.

(3) Provide tailored disposal support to the DoD warfighter during contingency operations, as approved by the ASD(L&MR).

(i) Work with the Military Departments to receive and dispose of property in the most efficient manner. If standard accountability practices are not practical, alternative processes may be established on a temporary basis. However, as time or conditions permit, prescribed processes will be established and appropriate additions, deletions, and adjustments to the official accountable record will be completed.

(ii) Provide comprehensive disposal services supporting customer-unique needs based on mutually developed service agreements. DLA Disposition Services, along with DLA, will work with customers of all levels, *e.g.*, generators, major commands, and Services, to define expectations and establish service delivery strategies.

(4) Use the most appropriate sales method to obtain optimum return on investment for all DoD surplus property sold. Respond to inquiries, process disputes, protests, and claims pertaining to disposable property sales.

(5) Implement quality control programs for the Defense Materiel Disposition Program to assure optimum reutilization; proper DEMIL; use of environmentally sound disposal practices; implementation of TSC measures for MLI and CCL items.

(6) Implement TSC in accordance with DoD Instruction 2030.08 for USML and CCL items and comply with applicable export control regulations and laws.

(7) Monitor DLA Disposition Services site PMRP operations and provide support to DoD Components and participating federal agencies. Manage the recovery operations of the PMRP.

(8) Prepare and distribute reports for disposition.

(9) Serve as the office of primary responsibility for environmentally regulated and HP as detailed in DoD Manual 4160.21, Volume 4.

(10) Comply with and implement the provisions of DoD Instruction 4160.28, DoD 4160.28–M Volumes 1–3, and DoD Instruction 2030.08 in the execution of DLA Disposition Services worldwide. Coordinate procedural waivers or deviations for approval by the DoD DEMIL Program Office or DoD TSC Office in DLA–HQ (J–334). Forward policy waivers or deviations from the DoD DEMIL Program Office or DoD TSC Office to the USD(AT&L) or USD(P) respectively for approval.

(11) Monitor property accountability and approve adjustments or corrections to property accounts for assigned DLA Disposition Services sites.

(12) Comply with implementing guidance relative to relationships with Combatant Commanders as prescribed in DoD Directive 5105.22, ''Defense Logistics Agency (DLA)'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/510522p.pdf*).

(13) Support disposal of Military Assistance Program property and other foreign-owned property in accordance with DoD 5105.38–M and § 273.7 of this subpart.

(14) Provide reutilization, donation, and marketing assistance and disposal service to customers.

(15) Maintain liaison with generating activities to determine most efficient method of acceptance (receipt in place vs. physical turn-in), determine mutually agreed-upon schedules for property receipts, and execute memorandums of understanding (MOUs) for receipt-in-place transactions.

(16) Process excess property, surplus property, FEPP, nonsalable materiel, and other authorized turn-ins from generating activities.

(17) Inspect and accumulate physical receipts of property; verify identity, by UII or IUID when applicable, and quantity. DLA Disposition Services sites need not verify quantities where units of issues are: lot, assortment, board foot, cubic foot, foot, inch, length, meter, square foot, square yard, and yard. These units of issue are impractical and economically unfeasible.

(18) Establish and maintain visibility of accountable property records for excess, surplus, and FEPP property.

(19) Provide or arrange adequate covered storage to protect received property from the elements, maintain its value and condition, and reduce handling. Store property to prevent contamination or mixing, ensure proper identification and segregation (bins or areas are prominently marked, labeled, tagged, or otherwise readily identifiable with the property locator record), and allow inspection.

(20) Fence or otherwise protect the disposal yard to ensure materiel is safeguarded against theft or pilferage. DLA Disposition Services are generally a tenant operation on a DoD installation that generates disposal property. The DLA Disposition Services must comply with the security matters identified in ISSAs established with the DoD Component regarding security regulations.

(21) Provide HW storage, as appropriate. Ensure HW storage facilities meet all applicable environmental standards and requirements, including those specified in 40 CFR part 264.

(22) Prepare ISSAs. Coordinate with the local installation to resolve matters of mutual concern.

(23) Provide information and assistance to those who are processing precious metals-bearing property into DoD PMRP.

(24) Ensure periodic inventories are conducted, accountable property records updated, and required inventory adjustment documents are prepared and processed.

(25) Implement reutilization, transfer, or donation (RTD) of surplus property. Promote maximum RTD of FEPP, excess property, and surplus property. Process authorized RTD requests. Ensure accountable records are updated in accordance with DoD Instruction 5000.64.

(26) Provide assistance to all authorized screeners, donees, and other interested persons.

(27) Facilitate the sale of property not reutilized, transferred, or donated, and appropriate for release into commerce.

(28) Deposit sale proceeds and other funds received, including storage charges and transfer monies to the appropriate accounts.

(29) Manage the DoD scrap recycling program (including precious metals recovery) and related financial records.

(30) Assist host installations in executing their QRPs in accordance with 10 U.S.C. 2577 and deliver sales revenues from eligible personal property to defray the costs incurred by operating and improving recycling programs, financing pollution abatement and environmental programs, funding energy conservation improvements, improving occupational, safety, and health programs, and funding morale, welfare, and recreation programs.

(31) Ensure DEMIL, including small arms serialized weapons and serialized parts is accomplished in accordance with DoD Instruction 4160.28 and DLA Disposition Services internal direction. Provide shipment locations and instructions to generating activities, as requested.

(32) Document handling and receipt of serialized weapons in accordance with the procedures in Defense Logistics Agency Instruction (DLAI) 1104, ''Control of Small Arms by Serial Number'' (available at *http://www.dla.mil/issuances/Documents_1/i1104.pdf*) for the control of small arms by serial number.

(33) Update the DoD IUID Registry upon the materiel disposition of uniquely identified items in accordance with the procedures in § 273.9.

(h) *ICP Manager.* The ICP Manager is responsible for the materiel management of a group of items either for a particular Military Department or for the DoD as a whole. For the Defense Materiel Disposition Program, the ICP manager will:

(1) Ensure managed items are properly cataloged in the FLIS, in accordance with DoD 4100.39–M. To prevent unauthorized disposition or release within DoD, other Federal civilian agencies, or release into commerce, include required data elements such as UII (when applicable), accurate codes for DEMIL, controlled inventory items, precious metals, shelf life items, and critical items (critical safety items (CSI) or flight safety critical aircraft parts), or other applicable data elements.

(2) Prepare complete instructions when property is assigned DEMIL Code ''F,'' in accordance with life-cycle management requirements in Enclosure 5 of DoD 4160.28–M Volume 2. Additionally, load the instruction in the DoD DEMIL ''F'' Instruction repository hosted by the Army's Integrated Logistics Support Center Web site at *https://tulsa.tacom.army.mil/*.

(3) Review DLA Disposition Services assets and orders, as appropriate, prior to initiating new purchases.

(4) Process other ICP interrogations or orders for requirements assigned a UMMIPS priority designator:

(i) Falling within Issue Priority Group 1 (Priorities 01–03).

(ii) In accordance with the procedures in DLM 4000.25–1.

(iii) Considering on-hand assets to the same extent as would be done to satisfy their own service orders.

(5) Prepare data, records for accountability, and provide disposition recommendations as prescribed here and in DoD Instruction 5000.64 in order to maintain backup material for audit review.

(6) Annually provide DLA Disposition Services with updates to points of contact on the DoD DEMIL program Web site *https://demil.osd.mil/* for operational matters, such as reutilization, donation, DEMIL, precious metals, HP, and CSIs.

(7) Arrange for DEMIL of those items not authorized for DLA Disposition Services site DEMIL processing.

(8) Submit available technical data needed to prepare specialized offers and reclamation requirements, when requested.

(9) Identify items requiring reclamation and advise Military Department and Defense Agency ICPs or

IMMs of items with reclamation potential.

(10) Prepare and forward reclamation transactions for the interservice interchange of data for component parts with reclamation potential.

(11) Process reclamation notifications and data interchange transactions of other ICPs.

§ 273.7 Excess DoD property and scrap disposal processing.

(a) *General.* (1) Military Departments and Defense Agencies will declare DoD property excess and use the DoD in-transit control system (ICS) as required by DoD Instruction 5000.64 and DLM 4000.25–2.

(2) Generating activities are encouraged to retain physical custody until disposition instructions are provided to reduce processing costs; *e.g.*, packaging, crating, handling, and transportation (PCH&T).

(3) Disposal of wholesale excess DoD property CONUS stocks from DLA Depot recycling control points (RCPs) is automated. This property does not require transport to a DLA Disposition Services site. Authorized excess DoD property is transferred between the RCP account and the DLA Disposition Services account (SC4402). The following FSGs, FSCs, SCCs, and DEMIL codes are ineligible for RCP:

(i) FSGs: 10, 11, 12, 13, 14, 18, 26, 68, 80, 87, 88, 89, 91 and 94.

(ii) FSCs: 2350, 3690, 4470, 4920, 4927, 6505, 6508, 6750, and 8120.

(iii) SCCs: H.

(iv) DEMIL Codes: G and P.

(b) *Property and scrap accepted and excluded.* (1) DLA Disposition Services must accept and dispose of all authorized DoD-generated excess, surplus, FEPP, scrap, and other personal property with the exclusions in paragraph (e) of this section.

(2) Property not disposed of through RTDS will be processed for disposal under an HW contract, except as specified elsewhere. For example, HP will be processed on HW disposal service contracts. Other property will be downgraded to scrap, demilitarized, processed for A/D, or disposed of through a DLA Disposition Services service contract.

(3) DLA Disposition Services sites minimize processing delays as much as possible. In the event a site is unable to physically accept the property at the desired time and location due to workload, generating activities may retain the property for processing in-place, seek another DLA Disposition Services site, or hold the property until the DLA Disposition Services site is able to receive the property.

(4) DLA Disposition Services sites:

(i) Accept and process nonsalable materiel that has no reutilization, transfer, donation, or sale value but is not otherwise restricted from disposal by U.S. law or Federal or military regulations.

(ii) Ensure that disposition is by the most economical and practical method; for example, donation in lieu of A/D or through a service contract that meets minimum legal requirements for disposal of the specific types of property.

(5) DLA Disposition Services sites may not accept (either physically or on its account) and no reutilization or sale service will be given for:

(i) Radioactive waste, items, devices, or materiel (all materiel that is radioactive).

(ii) Property designated for disposal by the Military Departments as identified in DoD Manual 4160.21, Volume 4.

(iii) Classified material, except that which is addressed by paragraph (b)(5)(v) of this section.

(iv) Nuclear weapons-related materiel.

(v) Classified and unclassified information systems security material (cryptological (CRYPTO) or communications security (COMSEC)). Disposal of FSCs 5810 and 5811 are the responsibility of the Military Departments and may not be transferred to DLA Disposition Services in their original configuration as specified in DoD 4160.28–M Volumes 1–3.

(vi) Property containing information covered by 5 U.S.C. 552a, also known as the Privacy Act of 1974.

(6) DoD Components will manage the collection and disposal of installation refuse and trash. If refuse and trash, when properly segregated, possesses RTDS potential, disposition may be accomplished via DLA Disposition Services, recycling provisions of refuse collection contracts, in-house refuse operations, or QRPs as appropriate.

(7) The DLA Disposition Services site operating as a tenant on an installation will notify the host activity when unauthorized shipments are received at the DLA Disposition Services site (including off-site shipments) of radioactive items, classified material, nuclear weapons-related materiel, and classified and unclassified information systems security material (CRYPTO/COMSEC). The host activity will be responsible for retrieving and securing any radioactive items, classified items and unclassified information systems security material (CRYPTO/COMSEC) immediately upon request of the DLA Disposition Services site.

(8) DLA Disposition Services sites will not accept scrap accumulations that are contaminated or commingled with:

(i) MPPEH.

(ii) MLI that require DEMIL (DEMIL Codes C, D, E and F) and MLI that require mutilation (DEMIL Code B). MLI with DEMIL Code G and P are not authorized for acceptance by DLA Disposition Services in their original state.

(iii) CCL items that have not undergone mutilation to the point of scrap as defined in DoD Instruction 2030.08.

(iv) HP FSCs.

(9) Contaminated scrap should be turned in as HW.

(c) *Scrap segregation and identification.* (1) Separating material at the source simplifies scrap segregation and reduces handling. Commingling material may reduce or, in some instances, destroy the value of the scrap.

(2) Generating activities are responsible for initial identification and segregation. The major basic material or content will be used in the item nomenclature block of the DTID.

(3) Scrap will be segregated to ensure only authorized items are in a scrap pile.

(4) DLA Disposition Services sites will provide guidance and, where possible, containers for use by scrap generators at the source.

(5) The generating activity collecting the scrap or waste will maintain proper segregation of the material and determine a point at which no further material will be added. When scrap piles are being built by the DLA Disposition Services site, the same principles apply. Scrap generated from explosive and incendiary items and chemical ammunition is dangerous and will not be commingled with other types of property.

(d) *Documentation for disposal through DLA Disposition Services.* (1) Use DoD automated information systems to the extent practical to prepare documentation for excess, surplus, or scrap DoD property or FEPP. This method of submitting information is preferred, particularly for turn-in of HW. In addition to submitting the information through automated information systems, hard copies must be produced and maintained with the items during the disposal processes.

(2) The generator will provide to the DLA Disposition Services site an original and three hard copies of a DD Form 1348–1A, ''Issue Release/Receipt Document,'' or DD Form 1348–2, ''Issue Release/Receipt Document with Address Label'' (available at *http://www.dtic.mil/whs/directives/infomgt/*

forms/formsprogram.htm.) The DTID must include a valid DoDAAC as authorized in Volume 6 of DLM 4000.25, ''Department of Defense Activity Address Code (DoDAAC) Directory (Activity Address Code Sequence)'' (available at *http://www2.dla.mil/j-6/dlmso/elibrary/Manuals/DLM/V6/Volume6.pdf*). All further references to DD Form 1348–1A, which also include DD Form 1348–2, will be referred to in this subpart as a DTID. Table 1 of this section provides guidance on preparation of the DD Form 1348 series documents. For scrap transfers, see paragraph (f) of this section.

TABLE 1—TRANSFERS OF USABLE PROPERTY TO DLA DISPOSITION SERVICES SITES (SINGLE LINE ITEM TURN INS) USING DD FORMS 1348–1A/2

Field legend	Record position	Entry and instructions
Document Identifier (DI)	1–3	A5J/940R. Use information on the source document to perpetuate the archived DI. For locally determined excesses generated at a base, post, camp, or station, assign a DI code as determined by shipping activity procedures.
Routing Identifier	4–6	Enter the record indicator (RI) of the shipping activity or leave blank when the shipping activity is not assigned an RI.
Media and Status	7	Leave blank.
Stock or Part Number	8–22	See block 25.
Unit of Issue	23–24	Enter the unit of issue of the stock or part number being turned in.
Disposal Quantity	25–29	Enter the quantity being turned in to disposal activity. See block 26.
Document Number	30–43	See block 24.
Alpha Suffix	44	Leave blank (Exception: Use if DTID consists of multiple documents because the 5-digit quantity field (Record Positions 24–29) is insufficient.) See block 24.
Supplementary Address	45–50	Enter DoDAAC of predesignated consignee DLA Disposition Services Site.
A DoDAAC is the key component for using the DLA Disposition Services property accounting disposal system to either turn in or order excess property to and from DLA Disposition Services. The code is required for all DoD activities, contractors, and FCAs to order, receive, ship, identify custody of government property, or reflect identification in a specified military standard logistics system. The code must be approved by the Military Departments, Defense Agencies, and FCA authoritative organization and be officially registered in the DoD activity address file. The DoDAAC system provides identification codes, plain text addresses, and selected data characteristics of organizational activities needed to order, mark, prepare shipping documents, bills, etc., and only recognizes active DoDAACs. FCAs are only authorized to turn excess property in to DLA Disposition Services for disposal if they have officially authorized an Economy Act Order for reimbursement of transaction billing charges.		
Signal	51	This code is used to designate the bill-to and ship-to (or ship-from in the case of DI code FT_and FD_records) activities. Codes B, C, and L apply to HM/HW transfers.
Fund	52–53	For HM and waste turn-ins, enter the fund code from Military Standard Billing System (MILSBILLS) designating the funds to be charged. For non-military activities who are not users of MILSBILLS, (*e.g.*, FCAs or NAFs) using an activity address code), enter ''XP.''
Distribution	54	Use the information on the source document to perpetuate the archived data or leave blank.
Retention Quantity	55–61	Enter the quantity to be retained in inventory or leave quantity blank.
Precious Metals	62	Enter applicable code from Appendix AP2.23 of DLM 4000.25–1.
Automated Data Processing Equipment Identification.	63	Enter applicable code from AP2.24 of DLM 4000.25–1.
Disposal Authority	64	Enter applicable code from DLM 4000.25–1 Appendix AP2.21. (Mandatory) (FCAs use DAC ''F''—not shown in appendix.)
Demilitarization Code	65	Enter the Web-Enabled FLIS or Federal Logistics Data (FEDLOG) recorded DEMIL code of record. For LSNs, Navy item control numbers, or Army control numbers assign DEMIL code in accordance with current Volume 2 of DoD 4160.28–M (Mandatory).
Reclamation	66	Enter code ''Y'' if reclamation was performed prior to release to a DLA Disposition Services site. Enter ''R'' if reclamation is to be performed after turn in to DLA Disposition Services site. Enter code ''N'' if reclamation is not required.
Routing Identifier	67–69	Generate from disposal release order.
Identifier Ownership	70	Enter applicable code or leave blank.
SCC	71	Enter applicable code from DLM 4000.25–2.
Management	72	Enter information from source document to perpetuate archived data or leave blank. If block 71 (SCC) is Q and the management code is blank, DLA Disposition Services will mutilate the property upon receipt.
Criticality Code	73	Enter criticality code documented in FLIS for the items in accordance with DoD 4100.39–M which indicates when an item is technically critical, by reason of tolerance, fit, application, nuclear hardness properties, or other characteristics that affects the identification of the item.

TABLE 1—TRANSFERS OF USABLE PROPERTY TO DLA DISPOSITION SERVICES SITES (SINGLE LINE ITEM TURN INS) USING DD FORMS 1348–1A/2—Continued

Field legend	Record position	Entry and instructions
Unit Price	74–80	Enter the unit price for the NSN or part number in record positions 8–22.
Block Entries		
1		Enter the extended value of the transaction.
2		Enter the shipping point identified by DoDAAC; if reduced printing is used, the clear address may be entered in addition to the DoDAAC.
3		Enter the consignee DLA Disposition Services site by DoDAAC. This will be the predesignated DLA Disposition Services site and will be entered by the shipping activity; if reduced printing is used, the in the clear address may be entered in addition to the DoDAAC.
4		Insert HM or HW, if applicable.
5		Enter the date of document preparation, if required by the shipper.
6		Enter the national motor freight classification, if required by the shipper.
7		Enter the freight rate, if required by the shipper.
8		Enter coded cargo data, if required by the shipper.
9		Enter applicable controlled inventory item code (CIIC), which describes the security or pilferage classification of the shipment from DoD 4100.39–M.
10		Enter the quantity actually received by the DLA Disposition Services site, if different from positions 25–29.
11		Enter the number of units of issue in a package, if required by the shipper.
12		Enter the unit weight applicable to the unit of issue, if required by the shipper.
13		Enter the unit cube applicable to the unit of issue, if required by the shipper.
14		Enter the uniform freight classification, if required by the shipper.
15		Enter the FLIS or FEDLOG recorded shelf-life code in block 15, if appropriate; otherwise, leave blank.
16		Enter in the clear freight classification nomenclature, if required by the shipper.
17		Enter the item nomenclature. For non-NSN items, enter as much descriptive information as possible. Specified additive data or certification from the generating source for specific types of property should be entered.
18		Enter type of container, if required by the shipper.
19		Enter number of containers that makes up the shipment, if required by the shipper.
20		Enter total weight of shipment, if required by the shipper.
21		Enter total cube of shipment, if required by the shipper.
22		Received by (for DLA Disposition Services site) signature of person receiving the materiel.
23		Date received (for DLA Disposition Services site) date materiel was received and signed for.
24		Document number. Generate from source document. DTID consists of 6-digit DoDAAC + 1-digit last number of year, 3-digit Julian Date + 4-digit generator-assigned serial number. This cannot be the same document number that was used to receive the materiel. For locally determined excesses generated at base, post, camp, or station, assign a document number as determined by Service or agency procedures. Leave suffix code blank unless needed to indicate additional documents to show complete quantity. Generating activities and ordering activities and their contractors must have a valid DoDAAC, as defined in DoD 5105.38–M to use DLA Disposition Services.
25		NSN—Enter the stock or part number being turned-in. For subsistence items, enter the type of pack in record position 21. If an NSN is not used, FSC, part number, noun or nomenclature, where appropriate, to build an LSN.
26		Leave blank. Reserved for DLA Disposition Services Site use.
27		This block may contain additional data including bar coding for internal DLA Disposition Services use, generator certifications (*e.g.*, inert certificate) or fund citation, FSCAP criticality code, etc. Enter data in this block as required by the shipping activity or the DLA Disposition Services Site receiving the materiel. When data is entered in this block, it will be clearly identified. For HM and waste turn ins, enter the DoDAAC of the bill to office, the contract line item number (CLIN) for the item, and the total cost of the disposal, (that is, CLIN cost times quantity in pounds equals cost of disposal).

(3) Generating activities may use the DLA Disposition Services web-based program electronic turn-in document (ETID) for submitting the required information electronically. ETID accommodates generators that do not have service-unique automated capabilities. ETID access and guidance are located on the DLA Disposition Services Web site. Generating activities requiring ETID access must apply for a user ID and password.

(4) In addition to the data required by DLM 4000.25–1, the DTID must clearly indicate:

(i) The reimbursable category (such as foreign purchased, NAF, FCA), including the reimbursement fund citation, or an appropriate indicator that reimbursement is required (*e.g.,* purchased with NAF or Disposal Authority Code ''F'' for FCAs). DTIDs without reimbursement data will be processed as non-reimbursable.

(ii) The value and a list of component parts removed from major end items or a copy of the limited technical inspection showing the nature and extent of repair required.

(iii) One of the SCCs listed in DLM 4000.25–2 as determined by the generator.

(5) DoD Components will turn in usable property with line item designations.

(i) To the extent possible, usable property will be turned in as individual line items with their assigned and valid NSN and UII (when applicable). Exceptions include property turned in as generator batchlots (see criteria in paragraph (g)(5)(ii) of this section); furniture turned in as a group on a

single form; and locally purchased property without an NSN.

(ii) Property may be turned in without a valid NSN when the materiel cannot be identified to a valid NSN in FEDLOG (*e.g.,* locally purchased property). Prior to assigning an LSN, generating activities will match the part number or bar code number from the property against the DLA Logistics Information Service Universal Directory of Commercial Items Cross Reference Inquiry.

(iii) Generating activities will assign an LSN if a part number or barcode is not available; the property is lost, abandoned, or unclaimed privately owned personal property; or the property is confiscated or captured enemy materiel. In Block 25 of the DTID, annotate the FSC, NATO codification bureau code, if available, and identify the noun, nomenclature, or part number.

(iv) Due to national security concerns, the FSCs listed in Table 2 of this section that are clearly MLI or CCL items require a higher degree of documentation. When these items are not assigned an NSN, the DTID must include the appropriate FSC; the valid part number and manufacturer's name; nomenclature that accurately describes the item; the end item application; and a clear text statement explaining why the NSN is not included (*e.g.,* locally purchased item, found on post, lost, abandoned, privately owned property). This information may be annotated directly on the DTID or securely attached to the DTID.

TABLE 2—FEDERAL STOCK CLASSES REQUIRING TURN-IN BY VALID NSN

GROUP 10	*GROUP 23*	*GROUP 58*
ALL FSCs	FSC 2305	FSC 5810[2]
	FSC 2355	FSC 5811[2]
GROUP 11	MLI or CCL items 2350	FSC 5820
ALL FSCs		FSC 5821
	GROUP 28	FSC 5825
GROUP 12	FSC 2840	FSC 5826
ALL FSCs	FSC 2845	FSC 5840
		FSC 5841
GROUP 13	*GROUP 29*	FSC 5845
ALL FSCs	FSC 2915	FSC 5846
		FSC 5850
GROUP 14	*GROUP 36*	FSC 5855
ALL FSCs	FSC 3690	FSC 5860
GROUP 15	*GROUP 42*	*GROUP 59*
FSC 1560	FSC 4230	FSC 5963
		FSC 5985
GROUP 16	*GROUP 44*	FSC 5998
FSC 1670	FSC 4470[1]	FSC 5999
GROUP 17	*GROUP 49*	*GROUP 66*
FSC 1710	FSC 4921	FSC 6615
FSC 1720	FSC 4923	
	FSC 4925	*GROUP 69*
GROUP 18	FSC 4927	FSC 6920
FSC 1810	FSC 4931	FSC 6930
FSC 1820	FSC 4933	FSC 6940
FSC 1830	FSC 4935	
FSC 1840	FSC 4960	*GROUP 84*
		FSC 8470
GROUP 19		FSC 8475
FSC 1905		

[1] Disposal of originally configured Navy assigned FSC 4470 items is the responsibility of the U.S. Navy.

[2] Disposal of FSC 5810/5811 equipment with a CIIC of 9 and that is classified (CIICs D, E, and F) or designated CCI is the responsibility of the owning Military Department and will not be received by DLA Disposition Services sites in its original configuration.

(v) The DTID for any property turned in by LSN without an assigned DEMIL code must include a required clear text DEMIL statement, based on information in DoD 4160.28–M Volumes 1–3. Generating activities may request assistance of a DLA Disposition Services site, DLA, or the integrated manager for the FSC to determine the appropriate statement. DLA Disposition Services sites will assist generating activities in developing the clear text DEMIL statement and assignment of the appropriate DEMIL code. If assistance is not requested or not used, DLA Disposition Services sites may reject the turn-in of materiel which does not meet established criteria.

(6) Scrap DTIDs will include:

(i) DI code.

(ii) Unit of issue (pounds or kilograms).

(iii) Quantity (total weight (estimated or actual)).

(iv) DTID number.

(v) Precious metals indicator code.

(vi) Disposal authority code.

(vii) Basic material content (Block 17).

(viii) Reimbursement data, if applicable.

(7) For HP documentation, see DoD Manual 4160.21, Volume 4.

(8) The generating activities will complete documentation for in-transit control of property (excluding scrap (SCC S)), waste, NAF, lost, abandoned, or unclaimed, privately owned, and FCA property) in accordance with DoD 4160.28–M Volume 3, for shipments or transfers to DLA Disposition Services sites of property with a total acquisition value of $800 or greater and all property designated as pilferable or sensitive identified by an NSN or part number. The ICS document tracks property from the time of release by generating activity (regardless whether the property is shipped to the DLA Disposition Services site or retained by the generating activity) until the DLA Disposition Services site accepts accountability. The generating activities will update the records to reflect the change in accountability and custody.

(9) DoD Components will identify defective items, parts, and components containing latent defects.

(i) *General information*—(A) *Category 1 (CAT 1) defective or counterfeit property.* (*1*) Is identified as military or Federal Government specification property intended for use in safety critical areas of systems, as determined by the user and reported to the item manager.

(*2*) Does not meet commercial specifications.

(*3*) If used, would create a public health or safety concern; RTDS as usable property is prohibited.

(*4*) Must be mutilated by the generating activity according to specific instructions provided by the item manager.

(B) *Category 2 (CAT 2) defective property.* (*1*) Does not meet military or Federal Government specifications, but may meet commercial specifications.

(*2*) Cannot be used for its intended military purpose and must not be redistributed within the Department of Defense, as directed by the item manager.

(*3*) May be used for commercial purposes and may be transferred, donated, or sold as usable property.

(*4*) If sold, requires special terms and conditions warning purchasers that the property is CAT 2 defective and is not acceptable for resale back to the Department of Defense.

(ii) *ICP requirements.* (A) ICPs will list defective property with the Government-Industry Data Exchange Program (GIDEP). GIDEP is located at *http://www.gidep.org/.*

(B) The DLA Disposition Services Safe Alert or Latent Defect (SALD) program contains additional disposal processing information for defective property and can be viewed at *http://www.dispositionservices.dla.mil/.*

(iii) *Sales requirements.* (A) If the property has been rejected as defective due to non-conformance with U.S. Government specifications, it may be authorized for sale with a statement as to the specific reason for its rejection. DLA Disposition Services will ensure that U.S. Government identification,

such as contract numbers, specification numbers, NSN, and any other printing that would identify the item with the U.S. Government is removed or obliterated. A statement to this effect will be included in the sales offering, as a condition of sale. Terms or conditions in sale offerings will warn purchasers that the property is CAT 2 defective and is not acceptable for resale to the Department of Defense.

(B) Return copies of the DTID from the DLA Disposition Services site. Unless generating activities provide written notification to DLA Disposition Services sites that electronic receipt confirmations are acceptable, DLA Disposition Services sites will provide final receipt documentation for each DTID. Generating activities can use the DLA Disposition Services property accounting system to query transactions status.

(e) *Property custody determinations*—(1) *Physical custody retention.* (i) Generating activities should consider retaining physical custody of property declared as excess to reduce handling and preclude transportation costs.

(ii) An MOU will be established between the servicing DLA Disposition Services site and the generating activity. Custodial and accountability responsibilities will be identified in the MOU. DLA Disposition Services sites will not take accountability until the MOU is executed and signed at the approval levels identified in the MOU.

(iii) Inspection(s) will be completed by the DLA Disposition Services site, where appropriate. If not accomplished by the DLA Disposition Services site, a mutually agreeable disposal condition code will be assigned.

(iv) Generating activities are responsible for all expenses incurred before acceptance of accountability by a DLA Disposition Services site. At the point of DLA Disposition Services accountability acceptance (not in conditional acceptance time frame as described in paragraph (g)(2) of this section), expenses (*e.g.,* PCH&T of non-hazardous excess, surplus, and FEPP) are borne by DLA Disposition Services. Exceptions may be negotiated by a DoD Component or federal agency representative at a level commensurate with DLA Disposition Services Director (Senior Executive Service level).

(v) The DLA Disposition Services site will provide barcode labels to the generating activity to affix on the property. The labels will contain the DTID number, DEMIL code, and federal condition code. The label will be positioned to clearly indicate that the property accountability has passed to DLA Disposition Services (*e.g.,* ''on DLA Disposition Services Site Inventory''). Property should be consolidated and protected in a designated area. The activity with physical custody is responsible for the property's care and protection until it is disposed of or moved to a DLA Disposition Services site.

(2) *Turn-ins.* When the generating activity decides to transport property to the DLA Disposition Services site, the care and custody of the property will be borne by the DLA Disposition Services site at the point of physical receipt.

(f) *Transferring usable property and scrap to a DLA Disposition Services site.* (1) Generating activities will comply with this part, DLM 4000.25–1, and their Service or agency retention and disposal policies and procedures when preparing property for transfer for disposal. The generating service will maintain accountable records of accountable property, in accordance with DoD Instruction 5000.64, until formally relieved of accountability by DLA Disposition Services.

(2) Generating activities will schedule all transfers (receipt in-place or physical) through advanced notification (*i.e.,* use of a listing or automated DTIDs.)

(3) Usable property will, to the extent possible, be transferred as individual line items with their assigned valid NSN and UII (when applicable). Exceptions include property turned in as generator batchlots, furniture turned in as a group on a ''tally-in'' form, and locally purchased property without an NSN.

(4) Scrap, properly identified with supply class by basic material content and segregated, must be transferred to a DLA Disposition Services site using a DTID.

(5) If the deficiency prohibits further DoD use, the materiel will remain in SCC Q, and owners will direct transfer of the materiel to DLA Disposition Services sites following the guidance in paragraph (d)(9) of this section. Improperly documented, unauthorized source, defective, non-repairable, and time-expired aviation CSI/FSCAP materiel that is not mutilated by the holding activity will be directed to the DLA Disposition Services site in SCC Q with management code S. All such materiel will be mutilated. The ICP/IMM should identify to the DLA Disposition Services any unique instructions for disposal requiring specific methods or information regarding hazardous material, waste, or property contained in the item. When transferring such aviation CSI/FSCAP to a DLA Disposition Services site, the generating activity DTID must clearly state in block 17 that the part is defective, non-reparable, time-expired, or otherwise deficient and that mutilation is required.

(6) Property capable of spilling or leaking may not be transferred to a DLA Disposition Services site in open, broken, or leaking containers. All property will be non-leaking and safe to handle.

(7) For physical transfers, generating activities will be responsible for movement of the property or scrap to the nearest DLA Disposition Services location.

(8) DEMIL instructions are to be provided by the ICP or IMM. DEMIL F items must have a valid and verifiable NSN. LSNs with DEMIL F are not valid. DLA Disposition Services sites will not accept DEMIL F property without the proper instructions.

(9) DTIDs that do not meet the requirements in paragraph (e) of this section will be rejected and returned to the Military Departments.

(10) To obtain DEMIL F instructions, please visit the Army's Integrated Logistics Support Center Web site at *https://tulsa.tacom.army.mil/DEMIL.*

(g) *Receipt of property and scrap*—(1) *During transfer.* (i) DLA Disposition Services sites are responsible for ensuring proper receipt, classification, processing, safeguarding, storing, and subsequent shipping of all property and scrap. This includes property to be accounted for as items and properly segregated scrap and waste with RTDS value, and materiel destined for disposal.

(ii) DLA Disposition Services sites will assist, when requested, in tracing property when an in-transit control follow-up has been received by the generating or shipping activity.

(iii) DLA Disposition Services sites will maintain close liaison with generating activities to ensure:

(A) Informational guidance on disposal transfers is given to generating activities.

(B) A DLA Disposition Services site's receiving capability and the volume of property to be transferred is taken into consideration for turn-in scheduling. Property inspections will be performed in-place if more advantageous due to the characteristics of the property, as determined by DLA Disposition Services.

(C) Assistance is provided to generating activities, as needed, to assure proper segregation of scrap and HW material before transfer. If the weight generated, market conditions, or local trade practices warrant, further scrap segregation will be made.

(D) All property (except unsalable materiel that is precluded from sale by

law), including scrap and refuse or trash with a RTDS value, is processed as set forth in this part and will not be disposed of by dumping in landfills. If the DLA Disposition Services site has knowledge of salable materiel being dumped in a sanitary fill, the DLA Disposition Services site chief will notify the installation commander regarding the matter.

(E) Property received is protected to prevent damage from unnecessary exposure to the elements. Property transferred as condemned may still be usable, and its preservation may benefit the Defense Materiel Disposal Program.

(*1*) Instances of improper handling of government property will be brought to the attention of the generating activity or installation commander for remedial action.

(*2*) Recurrent instances of improper care or handling will be documented for referral to DLA and the disposal focal points of the Military Departments and Defense Agencies.

(iv) The generating activity will assure all property and scrap is properly identified, including special handling requirements, and that automated information system or manually prepared documentation contains the required number of copies and appropriate information for property received in place or physically accepted.

(A) To the maximum extent possible, DLA Disposition Services sites will validate items during pre-receipt processes with documentation preparation and receipt processes with the physical transfer of the property.

(*1*) The generator's representative (if present) should assist with validation. Whether received in place or at a DLA Disposition Services site, a receipt copy of the DTID will be provided to the generator's representative at that time.

(*2*) If the turn-in is not accompanied by the generator's representative, the official receipt documentation will be provided in the most efficient method available; *e.g.,* through an electronic listing of items received, an actual copy of an annotated DTID or an electronic return of an annotated DTID through a web based document management system.

(*3*) For turn-ins accompanied by a generator representative, a conditional receipt copy will be provided at the time of delivery. DLA Disposition Services sites will initial in block 22 and date block 23 of the DTID. This copy constitutes conditional acceptance and becomes the official receipt unless property is rejected on a supply discrepancy report within 15 workdays.

(B) Validation will consist of verifying property description and quantity, and assuring an authorized and appropriate SCC was assigned by the generating activity. DLA Disposition Services sites and generating activities will work together to validate and verify requirements and obtain appropriate certifications, etc., when property is received in place versus physically transported to a DLA Disposition Services site. The MOU, discussed in § 273.6, will be used for securing and documenting these requirements.

(C) DLA Disposition Services site personnel may exercise discretionary authority to change and challenge SCCs (except for items in SCC Q, which will be downgraded to scrap and mutilated).

(D) For items in the general hardware, clothing, tools, furniture, and other nontechnical FSCs, DLA Disposition Services sites are authorized to use their best knowledge, judgment, and discretion to change and assign the appropriate SCC when determined, through physical inspection and examination, or where an obvious error in condition coding exists. DLA Disposition Services sites are responsible for any SCC changes they make and will document the change on the DTID.

(E) For specialized items such as avionics, or items that require test, measurement, or diagnostic to determine serviceability, DLA Disposition Services site should challenge the generating activity SCC assignment if it appears incorrect. Items in original pack and unopened containers that are coded condemned or unserviceable should be viewed with guarded skepticism and challenged back to the generating activity.

(v) Appropriate actions will be taken for discrepancies detected during pre-receipt or receipt:

(A) If property is to be physically received and the generating activity's representative is present, accountability and physical custody of the property will normally remain with the generator until reconciled. DLA Disposition Services sites, at their discretion, may retain physical custody until reconciled.

(B) Discrepancies noted during the receiving process, which may be discovered after electronic or hard copy documentation is received, will be processed in accordance with DLAI 4140.55/AR 735–11–2/Secretary of the Navy Instruction (SECNAVINST) 4355.18A/Air Force Joint Manual (AFJM) 23–215, ''Reporting of Supply Discrepancies'' (available at *http://www.dla.mil/issuances/Documents_1/i4140.55%20(Joint%20Pub%20-%206%20Aug%202001).pdf.*

(C) DLA Disposition Services will barcode the property for identification purposes. Barcoding should include use of any UII or IUID in place when applicable.

(2) *Conditional and accountable acceptance distinction.* Conditional and accountable acceptances are separate actions.

(i) Conditional acceptance occurs when a generating activity representative accompanies a transfer. DLA Disposition Services sites will provide a conditional receipt copy at time of physical delivery. Conditional acceptance becomes official and final acceptance receipt unless property is officially rejected by the DLA Disposition Services site within 15 workdays.

(ii) Accountable acceptance becomes final when verification of accurate property description, valid condition code assignment, correct quantity, and UII (when applicable) is completed by the DLA Disposition Services site. Physical inspections will be conducted, as appropriate.

(iii) During the conditional acceptance processing, if the property is physically transferred to the DLA Disposition Services site and an inventory discrepancy surfaces, the DLA Disposition Services site will research and provide a report of the lost, damaged, or destroyed property in accordance with procedures in DoD 7000.14–R Volume 12, Chapter 7. If the property remains at the generating activity site for receipt-in-place and an inventory discrepancy surfaces, the generating activity will research and provide a report of the lost, damaged, or destroyed property in accordance with procedures in DoD 7000.14–R Volume 12, Chapter 7. The accountable organization will amend the accountable property records as appropriate upon completion of the property loss investigation.

(3) *Document acceptance.* DLA Disposition Services sites will use a full signature for receipts in block 22 of the DTID. The conditional acceptance date will be entered in block 23. DLA Disposition Services sites will also use this date for the accountable record receipt transaction.

(4) *Returning receipts.* DLA Disposition Services sites will return one hard copy on physical transfers, including generator-prepared batchlots, if required by the generating activity. DLA Disposition Services will make return receipts available to generators via a web based document management system. Generating activities may access this system via the DLA Disposition Services Web site and search, view, and

download copies of turn-in documentation. DLA Disposition Services personnel should work with generating activities to encourage the use of a web-based document management system and eliminate hard copy return receipts.

(i) For property physically received by a DLA Disposition Services site, generating activities will be provided a receipt copy upon delivery.

(A) These receipts are considered conditional acceptance of accountability, pending completion of DLA Disposition Services site inspection and verification of the turn-in. If no follow-up report is received by the generating activity within 15 workdays, the provisional copy becomes the official receipt document, and the DLA Disposition Services Site assumes full accountability.

(B) If the receipt is not recorded in a web based document management system within 30 days, the provisional copy becomes the official receipt copy and the DLA Disposition Services Site assumes full accountability.

(C) If a discrepancy is found, DLA Disposition Services sites may contact the generating activity and attempt resolution. If required, the guidance shown in paragraph (g)(2)(iii) of this section will be used for inventory discrepancies.

(D) When acceptance is not possible, a reject notice will be provided to the generating activity within 7 workdays. Return receipts are available to generators via a web based document management system.

(ii) For turn-ins made by commercial carrier, parcel post, etc., DLA Disposition Services sites will provide receipt copies no later than 5 workdays after delivery. These receipts are considered conditional acceptance of accountability pending completion of DLA Disposition Services site inspection and verification of the turn-in. If a discrepancy is found, DLA Disposition Services sites may contact and attempt resolution. When acceptance is not possible, a reject notice will be provided to the generating activity within 7 workdays.

(5) *DLA Disposition Services site batchlots.* (i) Consistent with the DoD ICS and in accordance with DLA Disposition Services operating guidance, DLA Disposition Services sites may batchlot property after receipt:

(A) Batchlot property with an extended line item value of $800 or less, in SCCs A—H.

(B) Batchlot property that does not contain pilferable or sensitive materiel.

(ii) Property assigned DEMIL code ''A'' in the critical or non-critical FSG/FSCs, excluding FSCs 5985, 5998, and 5999, is eligible for batchlotting.

(iii) DLA Disposition Services sites may batchlot property requiring the same type of special processing, *e.g.,* reimbursable property, same FSC.

(iv) DLA Disposition Services sites may batchlot clothing and textile products with infrared or spectral reflectance with a DEMIL code of ''E,'' but the batchlots require a certification on the DTID (see Figure 1 of this section).

Figure 1. Infrared/Spectral Reflectance Batchlots Certification

"I certify that the clothing and textile items within this batchlot do not contain any items that have been designated as chemical or biological protective clothing or masks."

_____	_____
Signature	Date
_____	_____
Name (Print/Type)	Title
_____	_____
Activity/Unit	Grade/Rank

(v) DLA Disposition Services sites will exclude from batchlotting:

(A) Chemical, biological, radiological, and nuclear (CBRN) property and clothing (FSG 83 and 84); lab equipment such as centrifuges, biological incubators, micromilling machines, biological safety cabinets and laboratory evaporators; (FSG 66), camouflage clothing and individual equipment.

(B) Low dollar property with high potential for RTDS.

(C) Property defined as a special case in Enclosure 3 of DoD Manual 4160.21, Volume 4 that requires special receipt and handling requirements that cannot be met at time of receipt.

(D) DEMIL required items identified in DoD 4160.28–M Volumes 1–3, DEMIL codes B, Q, and property in critical FSCs in DEMIL codes C, D, E, F, G, and P. Property in FSCs 5935, 5996, and 5999 will not be batchlotted regardless of DEMIL code.

(E) Property requiring inert certification.

(F) Small arms or light weapons.

(G) Lasers.

(H) Radioactive materiels (*e.g.,* gauges, meters, watches) not eligible for turn-in.

(I) Chemical, biological, radiological, nuclear—defense (CBRN–D) equipment—These items are DEMIL F and instructions have to be followed for disposition and are NOT turned in to DLA disposition.

(J) Items with a CIIC. Items determined to be pilferable or sensitive in accordance with Volume 6 of DLM 4000.25 and DLA Regulation 4145.11/AR 740.7/Navy Supply System Command Instruction (NAVSUPINST) 4440.146C/Marine Corps Order (MCO) 4450.11, ''Safeguarding of DLA Sensitive Inventory Items, Controlled Substances, and Pilferable Items of Supply'' (available at *http://*

www.dla.mil/issuances/Documents_1/r4145.11.pdf).

(K) HP.

(L) Metalworking machinery and former industrial plant equipment.

(M) Grade 8 fasteners and machine bolts in FSCs 5305 and 5306. Do not batchlot these items if they appear on the SALD list.

(N) Property in SCC A with a total extended value, per DTID, of $50 or more, as shown in Table 3 of this section.

TABLE 3—FSCS IN SCC A > OR = $50 EXCLUDED FROM BATCHLOTTING

FSC	Description
2910	Engine Fuel System Component, Non-Aircraft.
2920	Engine Electrical System Components, Non-Aircraft.
2940	Engine Air and Oil Filters, Strainers and Cleaners, Non-Aircraft.
2990	Miscellaneous Engine Accessories, Non-Aircraft.
3030	Belting, Drive Belts, Fan Belts, and Accessories.
4730	Fittings and Specialties; Hose, Pipe, and Tube.
5660	Fencing, Fences and Gates and Components.
5895	Miscellaneous Communication Equipment.
5910	Capacitors.
5935	Connectors, Electrical.
5940	Lugs, Terminals and Terminal Strips.
5961	Semi-Conductor Devices and Associated Hardware.
6530	Hospital Furniture, Equipment, Utensils and Supplies.
6680	Liquid/Gas Flow, Liquid level/Mechanical Motion Measuring Instruments.
7105	Household Furniture.
7195	Miscellaneous Furniture and Fixtures.
9999	Miscellaneous Items (cannot conceivably be classified anywhere else).

(vi) Notwithstanding the information in paragraph (g)(5)(v) of this section, RTD customers may order individual items from a batchlot. DLA Disposition Services sites will honor these requests. Otherwise, items will not be removed from batchlots.

(vii) DLA Disposition Services sites are responsible for ensuring official receipt copies are returned accessible to generating activities (electronically or hard copy). They must provide tracing assistance for any DTID receipt copy not received by the generating activity.

(h) *Identification, barcoding, and storage requirements.* (1) Usable property, transferred to a DLA Disposition Services site or received in original location, must be clearly identified with barcode labels. The labels will be affixed to property from time of receipt (physically or receipt-in-place) until final removal and will correspond with accountability records. For property stored at DLA Disposition Services sites, signs will be placed appropriately to identify property status (RTD, DEMIL, etc.) and to minimize confusion to customers.

(2) Scrap transferred to a DLA Disposition Services site or received in original location will be accumulated and segregated to prevent commingling basic material content.

(i) For use in providing the basic material content information, scrap will be identified using the standard waste and scrap classification code (SCL) contained in the DAISY codes and terms pocket reference located at the DLA Disposition Services Web page (*https://www.dispositionservices.dla.mil/publications/index.shtml*). The pocket reference is formatted alphabetically.

(ii) Barcoded labels are not required for scrap accumulations. However, both the generating activity and DLA Disposition Services accounting records must correspond with the scrap identifications and weights. DLA Disposition Services must use the SCL in its DAISY accounting records.

(iii) During storage, DLA Disposition Services will place appropriate signs to identify types of scrap and maximize visibility to customers.

(i) *Accounting for property at the DLA Disposition Services site.* (1) Correct accounting for all excess property, surplus property, and FEPP by both the Military Departments and DLA Disposition Services sites is critical. Non-compliance can result in property being misappropriated with potentially severe consequences. Proper accounting impacts resourcing (money, equipment, and personnel) decisions.

(2) Accountability records will be maintained in auditable condition, allow property to be traced from receipt to final disposition and cleared from the ICS, when appropriate. DLA Disposition Services' accountability system will incorporate the requirements of DoD Directive 8320.02, 15 CFR parts 730 through 799, and DLA Regulation 7500.1, ''Accountability and Responsibility for Government Property in the Possession of the Defense Logistics Agency,'' (DLA Regulation 7500.1 is available at: *http://www.dla.mil/issuances/.*

(3) If a contingency operation requires a deviation from standard accountability practices, Military Departments and DLA Disposition Services sites will maintain spreadsheets, listings, or the most appropriate method of temporary accountable records. When the contingency operation reaches a point where prescribed accountability practices can be resumed, the temporary documents will be used for establishing, updating, or adjusting official accountability records (both Military Departments and DLA Disposition Services sites) as applicable.

(4) DLA Disposition Services' property accountability records will be maintained in sufficient detail to support required sales proceeds reimbursements.

(i) Materiel with different fund citation appropriations may be combined in sale lots; however, DLA Disposition Services accountability systems will retain individual disbursement information to allow appropriate reimbursements to local or departmental accounts, as designated by DoD 7000.14–R, ''Department of Defense Financial Management Regulations (FMRs): Volume 11a, ''Reimbursable Operations, Policy and Procedures''; Chapter 5, ''Disposition of Proceeds from Department of Defense Sales of Surplus Personal Property'', (available at *http://comptroller.defense.gov/fmr/current/11a/Volume_11a.pdf*).

(ii) Non-reimbursable scrap may be physically combined with other scrap when considered advantageous; however, accountability records will be maintained to substantiate pro-rating of the proceeds.

(5) Usable and scrap determination and accounting are calculated as follows:

(i) When property not requiring DEMIL is assigned SCCs F, G, or H, the DLA Disposition Services site may determine property has scrap value only and classify and process as ''scrap upon receipt.''

(ii) Personal property assigned other SCCs, which the DLA Disposition Services site determines to only have basic materiel content value, may be downgraded to scrap after the end-of-screening date (ESD) and completion of any required DEMIL.

(iii) DLA Disposition Services sites will minimize changing or challenging SCCs and downgrades upon receipt.

(iv) When an item has been offered on a competitive sale and no bid has been received, or bids received are less than the scrap value of the item, the property may be downgraded to scrap and re-offered for sale as scrap. This includes property returned to a DLA Disposition Services site from a joint commercial sales partner that has been confirmed as mis-described or as containing only basic material content value. Similar items received within a 12-month period that have a history of being nonsalable may be downgraded to scrap at ESD.

(v) When a DLA Disposition Services site determines obsolete printed materials have no RTD potential and only scrap market value, these items will be downgraded to scrap upon receipt.

(vi) When end items are turned in as scrap and are reclaimed or disassembled for their usable components, the DLA Disposition Services site's records will be adjusted to reflect the acquisition cost (estimated, if not known) of the components removed.

(6) Scrap accounting is calculated by weight.

(i) Estimated weight may be used for receiving scrap if scales are not available or if weighing is impractical. Disposition of scrap for sale or demanufacturing must be weighed to provide accurate accounting and reconciliation with the DLA Disposition Services accountable record.

(ii) The acceptable degree of accuracy of estimation is 25 percent for property processed by the ton, and 10 percent for property processed by the pound. Overages and shortages discovered on release of property that exceed allowable tolerances will be adjusted.

(iii) High value scrap must be weighed at the time of receipt.

(j) *Calibration and maintenance of weigh scales.* (1) DoD activities, including DLA Disposition Services sites with scales used for receipts and disposition of scrap, will ensure weigh scales under their jurisdiction are maintained, repaired, and calibrated annually or more often if required by State or local laws.

(2) Activities with scales will maintain a log or record of visits by qualified inspectors showing the date of the visit and, where appropriate, action taken to correct the accuracy of the scales. A signed copy of the inspector's findings will be maintained. The activity is responsible for obtaining the services of a qualified scale inspector and requesting repair when needed.

(k) *Physical inventory accuracy.* (1) DLA Disposition Services sites will conduct physical inventories. At a minimum, a sample inventory will be conducted at each DLA Disposition Services site annually. Inventory accuracy of at least 90 percent will be maintained for all usable property, except DEMIL required property, HP, and pilferable or sensitive property. Discrepancies will be corrected in accordance with paragraph (l) of this section. If sample inventories for usable property are less than 90 percent accurate, a wall-to-wall inventory will be conducted.

(2) Physical inventories for DEMIL required property, HP, and pilferable or sensitive property will be conducted at least annually. Inventory accuracy of 100 percent will be maintained. If less than 100 percent accuracy, DLA Disposition Services site will report the discrepancies in accordance with procedures in DoD 7000.14–R.

(3) Usable property remaining on the DLA Disposition Services site account in excess of 6 months will be inventoried on a monthly basis and certified.

(4) Inventory discrepancies will be researched as part of the inventory process and corrections documented as inventory adjustments.

(5) DLA Disposition Services will provide the DLA Disposition Services sites with direction for maintaining and reconciling scrap accumulations and accountable records. Reconciliation will be performed at least monthly.

(l) *Inventory discrepancies and adjustments*—(1) *Errors before acceptance.* Item identification, quantity, condition, or price data errors discovered before official acceptance of accountability will be resolved and corrected during receipt.

(2) *Errors after acceptance.* Discrepancies discovered after acceptance of accountability; that is, differences between recorded balances and quantities on hand, will be processed as inventory adjustments. Inventory adjustment procedures are contained in DoD 7000.14–R, Volume 12, Chapter 7.

(3) *Property not in DLA Disposition Services site custody.* (i) When property for which a DLA Disposition Services site has assumed accountability, but not physical custody, becomes lost, damaged, or destroyed, the custodial activity will investigate the discrepancy and provide its findings to the DLA Disposition Services site.

(ii) The DLA Disposition Services site will provide the custodial activity with requested item identification number, such as NSN, DTID number, or UII (when applicable) or copies of pertinent documentation for the lost, damaged, or destroyed item.

(A) If the custodial activity determines the discrepancy is due to a record keeping error, it will fully document the error and inform the DLA Disposition Services site to prepare an inventory adjustment.

(B) If the discrepancy is not due to a record keeping error, the custodial activity must prepare a DD Form 200, ''Financial Liability Investigation of Property Loss,'' in accordance with criteria contained in DoD 7000.14–R, Volume 12, Chapter 7.

(iii) Within 30 days after notification of the loss of the property, the custodial activity must provide the DLA Disposition Services site a completed copy of the DD Form 200 as supportive documentation for the DLA Disposition Services site to process an inventory adjustment.

(m) *Property disposition*—(1) *Packing, crating, and handling (PC&H).* PC&H for DoD orders will be arranged by the DLA Disposition Services site in most cases. When property is received in place, the generating activity will prepare the property for shipment. DLA Disposition Services will submit payment for these services according to the established ISSA or by DLA Disposition Services military interdepartmental purchase request.

(2) *Transportation.* DLA Disposition Services will directly fund transportation costs associated with reutilized property on each transaction. However, these costs are recouped as part of the Service-level annual billings for all associated disposition costs incurred by the services including all transportation costs during the year.

That is, individual DoD units do not pay for reutilization transportation on each individual transaction, but their Military Service is billed on an annual basis.

(n) *Audits*—(1) *Outside command involvement.* When it is necessary to obtain or confirm data on materiel transferred to or from disposal accounts, and this involves crossing command lines between DoD Components, the policy in DoD Instruction 7600.02, ''Audit Policies'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/760002p.pdf*) will apply.

(2) *Joint Service/DLA Directives used during audits.* The DoD Components will maintain a clear audit trail of the documentation for the disposition of property in accordance with their internal issuances for audits. The internal issuances that govern Army, Navy, and Air Force are:

(i) AR 36–2, ''Audit Services in the Department of the Army'' (available at *http://www.apd.army.mil/pdffiles/r36_2.pdf*).

(ii) SECNAVINST 7510.7F.

(iii) Air Force Policy Directive 65–3, ''Internal Auditing'' (available at *http://static.e-publishing.af.mil/production/1/saf_fm/publication/afpd65-3/afpd65-3.pdf*).

§ 273.8 Donations, loans, and exchanges.

(a) *Authority and scope*—(1) *FMR.* Provisions for donation of surplus personal property are provided in accordance with 41 CFR part 102–37.

(2) *Other regulations.* (i) 10 U.S.C. 2576a permits the Secretary of Defense to transfer certain property for use for State and local law enforcement agencies. Notwithstanding 41 CFR chapters 101 and 102, donations may be made only as authorized by law; under separate statutes, the Secretaries of the Military Departments may donate certain excess materiel to authorized recipients; through GSA, the Department of Defense may donate surplus property to authorized donees. Donations are subordinate to federal agency needs, but take precedence over sale or A/D. This section also contains guidance and procedures pertaining to loans or exchanges, providing specific instructions to authorized donees.

(ii) 42 U.S.C. chapter 68 authorizes federal assistance to States, local government, and relief organizations based on a declaration of emergency or major disaster.

(iii) 10 U.S.C. 2557, 2572, 2576, and 5576a establishes the procedures for organizations participating in surplus personal property donation programs, specifically the organizations discussed in this section.

(3) *Agreements.* Technology transfer projects and 10 U.S.C. 2194 address educational partnership agreements.

(b) *Compliance with nondiscrimination statutes requirements.* (1) All of the donation programs covered by this section must comply with:

(i) 42 U.S.C. 2000a, also known as Title VI of the Civil Rights Act of 1964.

(ii) 20 U.S.C. 1681, also known as Title IX of the Education Amendments of 1972.

(iii) 29 U.S.C. 701 also known as the Rehabilitation Act of 1973.

(iv) 42 U.S.C. 6101 also known as the Age Discrimination Act of 1973.

(2) Any complaints alleging violations of these acts or inquiries concerning the applicability to the programs covered in this section will be handled by elevating issues through the appropriate chains of command and agency-to-agency dialog.

(c) *Donations of surplus personal property*—(1) *General.* (i) Surplus property is allocated by GSA considering the factors listed in 41 CFR chapters 101 and 102.

(ii) GSAXcess® is available for State agencies for surplus property (SASPs) and donees, when authorized, to search for and select property for donation. Screening is accomplished during the timeframes specified in § 273.15.

(iii) Upon allocation, GSAXcess® will generate the SF 123, ''Transfer Order Surplus Personal Property'' to the agency for approval and return. DoD orders for DLA Disposition Services assets with a UMMIPS Priority Designator within Issue Priority Group 1 (Priorities 01–03), and non-mission capable supply (NMCS) orders will be submitted to DLA Disposition Services as an exception. DLA Disposition Services will immediately fill these orders and notify the GSA area property officer for the Front End Data System record adjustment. Priorities 4–15 orders received during this timeframe will not be honored.

(2) *Accessing GSAXcess®.* GSAXcess® screening requires an access code from GSA. To learn about GSAXcess® and obtain access code information, see *https://gsaxcess.gov/.*

(3) *Release of Government liability.* On a case-by-case basis, ''hold harmless'' clauses to protect the United States may be used, depending on the types and quantities of property. Such provisions must be written in coordination with appropriate DoD Component legal counsel.

(4) *Reporting.* DLA will provide GSA a report of property transferred to non-federal recipients. The report:

(i) Will be submitted to GSA through the GSA on-line Personal Property Reporting Tool within 90 calendar days after the close of each fiscal year. The Personal Property Reporting Tool is located at *https://gsa.inl.gov/property.* If for any reason the report is delayed, the organization who possesses the property should contact the GSA Personal Property Asset Management (MTA), 1800 F Street NW., Washington, DC 20405, with an explanation of the delay. The report must cover personal property disposed during the fiscal year in all areas within the 50 United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and the U.S. Virgin Islands. Negative reports are required.

(ii) Must reference Interagency Report Control Number 0154–GSA–AN and contain:

(A) Name of the non-Federal recipient.

(B) Zip code of the recipient.

(C) Explanation as to the type of recipient (*e.g.,* contractor, grantee, cooperative, Stevenson-Wydler recipient, licensee, permittee).

(D) Appropriate 2-digit FSC group.

(E) Total original acquisition cost of all personal property furnished to each recipient.

(F) Appropriate comments as necessary.

(G) IUID or UII equivalent.

(5) *Donation restrictions.* (i) All surplus property (including property held by working capital funds established under 10 U.S.C. 2208 or in similar funds) is available for donation to eligible recipients, in accordance with authorizing laws, except for property in the categories in paragraphs (c)(5)(i)(A) through (M) of this section:

(A) Agricultural commodities, food, and cotton or woolen goods determined from time to time by the Secretary of Agriculture to be commodities requiring special handling with respect to price support or stabilization.

(B) Controlled substances.

(C) Foreign purchased property (as identified in DoD 5105.38–M).

(D) Naval vessels of the following categories: battleships, cruisers, aircraft carriers, destroyers, and submarines.

(E) NAF property.

(F) MLI, except in compliance with DoD Instruction 4160.28, DoD 4160.28–M Volumes 1–3, and DoD Instruction 2030.08.

(G) CCL items, except in compliance with 15 CFR parts 730 through 774 and DoD Instruction 2030.08.

(H) Property acquired with trust funds (*e.g.,* social security trust funds).

(I) Records of the Federal Government.

(J) Vessels of 1,500 gross tons or more, excluding specified Naval combat vessels, which the Maritime Administration determines to be merchant vessels or capable of conversion to merchant use (as defined in 41 CFR chapters 101 and 102).

(K) Items as may be specified from time to time by the GSA Office of Government-wide Policy.

(L) Property that requires reimbursement upon transfer (such as abandoned or other unclaimed property that is found on premises owned or leased by the Government).

(M) Hazardous waste.

(N) Other Hazardous property and hazardous materials not otherwise identified in the categories in paragraphs (c)(5)(i)(A) through (M) of this section that is not serviceable, for example supply condition codes (SCCs) listed in DLM 4000.25–2 as SCC E for unserviceable (limited restoration) materiel, SCC F for unserviceable (reparable) materiel, and SCC G for unserviceable (incomplete) materiel, SCC H for unserviceable (condemned) materiel, SCC P for unserviceable (reclamation) materiel.

(ii) Certain items require special processing for donations (in accordance with the requirements in DoD 5105.38–M. DoD Manual 4160.21, Volume 4 provides the procedures.

(6) *Returnable DoD property.* (i) As restrictions are imposed on certain commodities, the Department of Defense, through GSA, will request a return of these items and provide guidance.

(ii) Known restrictions require written certification and signature by the recipient at the time of removal.

(7) *Allocating surplus property.* GSA directly allocates property to:

(i) *FAA.* Public airports are managed through the FAA.

(A) The FAA Administrator has the responsibility for selecting property determined to be either:

(*1*) Essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport, as defined in 49 U.S.C. 47102.

(*2*) Reasonably necessary to fulfill the immediate and foreseeable future needs of the grantee for the development, improvement, operation, or maintenance of a public airport.

(*3*) Needed to develop sources of revenue from non-aviation businesses at a public airport.

(B) Public airports will secure advance approval of donations by obtaining signatures of the applicable FAA airport branch chief and by the GSA regional office on the order (SF 123).

(ii) United States Agency for International Development.

(iii) *SASPs.* (A) SASPs are responsible for determining eligibility of applicants; fairly and equitably distributing donated property to eligible donees within their State; assuring donees comply with donation terms and conditions; and when requested by donee, arranging for or providing shipment of property from the federal holding agency, *e.g.,* DLA Disposition Services sites, directly to the recipients.

(B) The SASP donates property to public and eligible nonprofit organizations. Types of eligible recipients are:

(*1*) Medical institutions, hospitals, clinics, and health centers.

(*2*) Drug abuse and alcohol centers.

(*3*) Providers of assistance to homeless individuals.

(*4*) Providers of assistance to impoverished families and individuals.

(*5*) Schools, colleges, and universities.

(*6*) Schools for the mentally and physically disabled.

(*7*) Child care centers.

(*8*) Radio and television stations licensed by the Federal Communications Commission as educational radio or television stations.

(*9*) Museums attended by the public.

(*10*) Libraries providing the resident public (community, district, State, or region) with free access.

(*11*) State and local government agencies, or nonprofit organizations or institutions. 42 U.S.C. 3015 and 3020 authorizes donations of surplus property to State and local government agencies, or nonprofit organizations or institutions that receive federal funding to conduct programs for older individuals.

(*12*) States and territories.

(*13*) *SEAs.* The Deputy Secretary of Defense is authorized to designate new SEAs. Table 4 of this section includes the list of approved SEAs. SEA nominations from the Military Departments or Defense Agencies should be forwarded to the Office of the Assistant Secretary of Defense for Logistics and Materiel Readiness, 3500 Defense Pentagon, Washington, DC 20301–3500

(*14*) Educational activities that are of special interest to the Military Services may receive surplus DoD property in accordance with 41 CFR chapter 101.

TABLE 4—SEA NATIONAL OFFICES

American National Red Cross, 17th and D Streets NW., Washington, DC 20006.	Armed Services YMCA of the USA, 6225 Brandon Avenue, Suite 215, Springfield, VA 22150–2510.
Big Brothers/Big Sisters of America, 230 North 13th Street, Philadelphia, PA 19107.	Boys and Girls Clubs of America, 771 First Avenue, New York, NY 10017.
Boy Scouts of America, 1325 Walnut Hill Lane, Irving, TX 75038–3096	Camp Fire, Inc., 4601 Madison Avenue, Kansas City, MO 64112–1278.
The Center for Excellence In Education, 7710 Old Springhouse Road, McLean, VA 22102.	Girl Scouts of America, 420 5th Avenue, New York, NY 10018–2702.
Little League Baseball, Inc., Williamsport, PA 17701	National Association for Equal Opportunity In Higher Education, 2243 Wisconsin Avenue NW., Washington, DC 20007.
National Ski Patrol System, Inc., 133 South Van Gordon Street, Suite 100, Lakewood, CO 80228.	U.S. Naval Sea Cadet Corps, 2300 Wilson Boulevard, Arlington, VA 22201.
United Service Organizations, Inc., 601 Indiana Avenue, Washington, DC 20004.	United States Olympic Committee, 1 Olympic Plaza, Colorado Springs, CO 80909–5760.
National Director, Young Marines of the Marine Corps, P.O. Box 70735, Southwest Station, Washington, DC 20024–0735.	President—Board of Directors, Marine Cadets of America, USN & MC Reserve Center, Fort Nathan Hale Park, New Haven, CT 06512–3694.
Corporation for the Promotion of Rifle Practice and Firearms Safety, Erie Industrial Park, Building 650, P.O. Box 576, Port Clinton, OH 43452.	Marine Corps League, P.O. Box 3070, Merrifield, VA 22116.

(C) High schools that host a Junior Reserve Officer Training Corps (JROTC) Unit or a National Defense Cadet Corps Unit, Naval Honor Schools, and State Maritime Academies should contact

their sponsoring Military Department regarding donations.

(D) SEAs must maintain separate records that include:

(*1*) Documentation verifying that the activity has been designated as eligible by the Department of Defense to receive surplus DoD property.

(*2*) A statement designating one or more donee representatives to act for the SEA in acquiring property.

(*3*) A listing of the types of property that are needed or have been authorized by the Department of Defense for use in the SEA program.

(8) *Identification of screeners.* (i) SASP personnel or donee personnel representing a SASP must have a valid screener-identification card (GSA Optional Form 92, screener's identification, or other suitable identification approved by GSA) before screening and selecting property at holding agencies. However, SASP or donee personnel do not need a screener ID card to inspect or remove property previously set aside or approved by GSA for transfer.

(ii) Screeners, having identified themselves and indicated the purpose of their visit, will sign the Visitor or Vehicle Register and be allowed to complete donation screening only.

(9) *Screening and ordering procedures for DLA Disposition Services property.* (i) Section 273.15(c) outlines the screening timeframes for ZI surplus and FEPP that has reached the surplus release date.

(ii) When a prospective donee contacts a DLA Disposition Services site or military installation regarding possible acquisition of surplus property, the individual or organization will be advised to contact the applicable SASP for determination of eligibility and procedures to be followed. The DLA Disposition Services sites will assist interested parties regarding availability of surplus property.

(iii) SASP contacts may be located on the GSA Web site at *http://www.gsa.gov/portal/content/100851.*

(iv) Prospective donees must go to GSAXcess® to gain access, shop, and select property.

(A) Once GSA allocates property, the SASP will receive an SF 123. The donee should then sign and return the SF 123 to the appropriate GSA office.

(B) GSA will then approve the SF 123 by signature, return the SF 123 to the SASP, and notify DLA Disposition Services with an electronic order.

(v) Procedures for return of surplus FEPP to the United States for ultimate donation are covered in Enclosure 4 of DoD Manual 4160.21, Volume 2.

(vi) DLA Disposition Services sites will require recipients of HM to sign a certification statement as shown in Figure 2 of this section.

Figure 2. Certification of HM Recipients

"I (we) hereby certify that the donee has knowledge and understanding of the hazardous nature of the property hereby donated and will comply with all applicable federal, State, and local laws, ordinances and regulations with respect to the care, handling, storage, shipment, and disposal of the HM. The donee agrees and certifies that the U.S. Government will not be liable for the personal injuries to, disabilities of or death of the donee or the donee's employees, or any other person arising from or incident to the donation of the HM or its final disposition. Additionally, the donee agrees and certifies to hold the U.S.
Government harmless from any and all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the HM, its use, or final disposition."
_____ Signature _____ Date
_____ Name (Print/Type) _____ Title _____ Activity/Unit _____ Grade/Rank _____ Phone Number

(A) After allocation and approval, if the customer no longer wants or needs the property, the customer is required to notify the SASP, GSA, and the DLA Disposition Services site.

(B) GSA may reallocate the property if there is an existing request by another potential recipient. If the property is reallocated, cancellation of the existing request will be transmitted by GSA and

another transmission to DLA Disposition Services is required.

(C) If the property is not reallocated, GSA must cancel the existing MRO.

(10) *Customer removal of ordered property.* (i) All transportation arrangements and costs are the responsibility of the SASP or designated donee. The DLA Disposition Services site may not act as agent packager or shipper. Until release, each holding activity is responsible for the care and handling of its property.

(ii) The SASP or designated donee will only pay for direct costs of care and handling incurred in the actual packing, crating, preparation for shipment, and loading. The price will be the actual or carefully estimated costs incurred by DoD traffic management activities for labor, material, or services used in donating the property.

(iii) Advance payment for care and handling costs will normally be required; however, State and local governmental units may be exempted from this requirement and authorized to make payment within 60 days from date of receipt of property. Advance payment may be required in any case where prompt payment after billing has been unsatisfactory.

(iv) Donees must schedule removal of property with the DLA Disposition Services site. Upon arrival, the individual must provide identification and must sign the DLA Disposition Services Visitor or Vehicle Register, indicating the purpose of the visit.

(v) The individual must provide an approved SF123 as authorization for removal.

(vi) DLA Disposition Services sites will release surplus property to authorized donees upon receipt of a properly completed and approved SF 123 or MRO.

(d) *Special donations (gifts), loans, and exchanges outside the FMR*—(1) *Compliance.* The DoD Components:

(i) Comply with the specific governing statute for the type of property and ensure the limitations of the governing statute are observed. In accordance with 10 U.S.C. 2572 and DoD issuances, the Secretary of a Military Department or the Secretary of the Treasury is permitted to donate, lend, or exchange, as applicable, without expense to the United States, books, manuscripts, works of art, historical artifacts, drawings, plans, models and condemned or obsolete combat materiel that are not needed by the Military Services.

(ii) Establish supplementary procedures governing loans, donations, and exchanges.

(iii) May donate, loan or exchange items as identified in paragraph (d)(1) of this section, if the special donation, loan, or exchange action occurs prior to transfer to DLA Disposition Services for disposition. It is not authorized after property has been officially declared excess and transferred to DLA Disposition Services.

(iv) May exchange assets for:

(A) Similar items;

(B) Conservation supplies, equipment, facilities, or systems;

(C) Search, salvage, or transportation services;

(D) Restoration, conservation or preservation services; or

(E) Educational programs when it directly benefits the historical collection of the DoD Components.

(v) May not make an exchange unless the monetary value of the property transferred or services provided to the United States under the exchange is not less than the value of the property transferred by the United States. The Secretary concerned may waive this limitation in the case of an exchange for property in which the Secretary determines the item to be received by the United States will significantly enhance the historical collection of the property administered by the Secretary.

(vi) Will not incur costs in connection with loans or gifts. However, the DoD Component concerned may, without cost to the recipient, DEMIL, prepare, and transport within the CONUS items authorized for donation to a recognized war veterans' association in accordance with DoD 4160.28–M Volumes 1–3 if the DoD Component determines this can be accomplished as a training mission, without additional expenditures for the unit involved.

(vii) Will maintain official records of all DoD materiel loaned including physical inventory, record reconciliation, and management reporting specified in the inventory management procedures in DoD Manual 4140.01, ''DoD Supply Chain Materiel Management Procedures'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/414001m/414001m_vol01.pdf*). Verify yearly that property is being used for approved purposes, is being maintained and protected according to the agreement, and that the recipient organization still desires to retain the property. The DoD Component may perform this annual check by any method that provides reasonable assurance the recipient organization is fulfilling its responsibilities. DoD Components may request assistance from qualified DoD organizations.

(2) *Organizations authorized to receive loans and donations.* (i) A municipal corporation.

(ii) A soldiers' monument association.

(iii) An incorporated museum or memorial that is operated by a historical society, a historical institution of a State or foreign nation, or a nonprofit military aviation heritage foundation or association incorporated in a State.

(iv) An incorporated museum that is operated and maintained for educational purposes only and the charter of which denies it the right to operate for profit.

(v) A post of the Veterans of Foreign Wars of the United States or the American Legion or a unit of any other recognized war veterans' association.

(vi) A local or national unit of any war veterans' association of a foreign nation recognized by the national government of that nation (or by the government of one of the principal political subdivisions of that nation).

(vii) A post of the Sons of Veterans Reserve.

(3) *Requirements for veterans' organizations.* To qualify, veterans' organizations must be:

(i) Sponsored by a Military Department.

(ii) Evaluated based on its size, purpose, the type and scope of services it renders to veterans, and composed of honorably discharged American soldiers, sailors, airmen, marines, or coastguardsmen.

(4) *Requirements for museums.* To qualify, museums must:

(i) Meet State (or equivalent foreign national) criteria for not-for-profit museums.

(ii) Have an existing facility suitable for the display and protection of the type of property desired for loan or donation. If the requester has a facility under construction that will meet those requirements, interim eligibility may be granted.

(iii) Have a professional staff that can care for and accept responsibility for the loaned or donated property.

(iv) Have assets that, in the determination of the loaning or donating service, indicate the capability of the loaner and the borrower to provide the required care and security of historical property.

(5) *Eligibility determination.* The DoD Components will determine the eligibility of organizations for gifts and loans. The DoD Components may establish eligibility requirements dependent upon the unique nature of the specific historical item; however, the minimum requirements are:

(i) Limit donations, loans, or exchanges to property stipulated by 10

U.S.C. 2557, 2572, 2576, and 2576a. Except for relevant records for aircraft and associated engines and equipment (unless authorized under DoD 4160.28–M Volumes 1–3 and DoD Instruction 2030.08), government records may not be released.

(ii) Approve the loan, donation, or exchange; process requests for variations from the original agreement; and maintain official records of all donation, loan, and exchange agreements. The approval of exchanges may be delegated at the discretion of the Secretary concerned, and is encouraged for low-dollar transactions.

(iii) Establish controls for determining compliance by the recipient organization with the display, security, and usage criteria provided in the loan and donation agreements.

(iv) Provide disposition instructions to the recipient organization when loaned or donated property is no longer needed or authorized for continued use.

(v) Establish conditions for making donations, loans, or exchanges.

(vi) Establish a process (*e.g.,* a council or other means suitable to the loan and donation organization) to review and approve proposed exchanges incorporating legal and financial review independent of the museum involved. Personnel directly involved in museum operations will not act as sole approving authority for any exchange transactions.

(vii) Ensure that correspondence regarding loans, donations, or exchanges is signed by individuals authorized to obligate their organization.

(viii) Ensure appropriate DEMIL of the property as prescribed in DoD 4160.28–M Volumes 1–3 before release. If standard DEMIL criteria cannot be applied without destroying the display value, specific DEMIL actions (such as aircraft structural cuts) may be delayed. The recipient organization must agree to assume responsibility for the property DEMIL action, at no cost to the Government, when the item is no longer desired or authorized for display purposes. The recipient organization may also return the property to the Government via the donating Military Department for full DEMIL action.

(ix) Loan, donate, or exchange property on an ''as is, where is'' basis and ensure that the recipient organization agrees to pay all costs incident to preparation, handling, and movement of the property. Military Department contact points for the loan, donation, or exchange of property are at Table 5 of this section.

(A) Property may not be repaired, modified, or changed at government expense over and above normal preparation for handling and movement, even if reimbursement is offered for services rendered.

(B) Property may not be moved at government expense to a recipient's location or to another location closer to the recipient to prevent or lessen the recipient organization's processing or transportation costs.

(C) No charge will be made for the property itself, but all physical processing of the property for the loan or donation will be the responsibility of the recipient organization. The recipient organization will pay all applicable charges before release of the property.

TABLE 5—MILITARY DEPARTMENT CONTACT POINTS FOR LOAN, DONATION, OR EXCHANGE OF PROPERTY

ARMY: (all commodities)
Commander
U.S. Army Tank Automotive and Armament Command
ATTN: AMSTA–IM–OER
Warren, MI 48397–5000
Email: *donations@cc.tacom.mil*
Telephone: 1–800–325–2920 extension 48469

NAVY:

Navy and Marine Corps aircraft, air launched missiles, aircraft engines, and aviation related property:
Commanding Officer
NAVSUP Weapon Systems Support
ATTN: Code-03432–06
700 Robbins Ave.
Philadelphia, PA 19111–5098

Obsolete or condemned Navy vessels for donation as memorials; Navy major caliber guns and ordnance; and shipboard materiel:
Commander
ATTN: NAVSEA–OOD, NC
Naval Sea Systems Command
2531 Jefferson Davis Highway
Arlington, VA 22242–5160

AIR FORCE:

Air Force aircraft, missiles or any other items authorized for donation for display purposes to a museum recipient:
NMUSAF/MUX
1100 Spaatz St.
Wright-Patterson AFB, OH 45433–7102

The USAF Museum operates a loan program only. Donations are not offered.

Any other Air Force item authorized for donation for display purposes (to recipients other than a museum):
HQ AFMC/A4RM
4375 Chidlaw Rd., Building 262
Wright-Patterson AFB, OH 45433–5006

MARINE CORPS:

Marine Corps assault amphibian vehicles (to recipients other than a museum):
Commandant of the Marine Corps
ATTN: LPC–2
HQ U.S. Marine Corps
3000 Marine Corps, Pentagon, RM 2E211
Washington, DC 20350

Marine Corps historical property (all other inquiries):
Commandant of the Marine Corps
ATTN: History and Museum Division (HD)
Marine Corps Historical Center

TABLE 5—MILITARY DEPARTMENT CONTACT POINTS FOR LOAN, DONATION, OR EXCHANGE OF PROPERTY—Continued

1254 Charles Morris Street SE Washington Navy Yard, DC 20374–5040
U.S. Coast Guard
For U. S. Coast Guard historical assets contact COMDT (CG–09224) at mail stop 7031: Commandant (CG–09224) U. S. Coast Guard Headquarters, Douglas A. Munro Building 2703 Martin Luther King Jr. Ave. South East, Stop 7031 Washington, DC 20593–7031
For all other assets contact Commandant (CG–844) at mail stop 7618: Commandant (CG–844) U. S. Coast Guard Headquarters, Douglas A. Munro Building 2703 Martin Luther King Jr. Avenue South East, Stop 7618 Washington, DC 20593–7618

(x) Record assets on property accountability records before they are loaned, donated, or exchanged.

(xi) Coordinate with the DoS before a donation, loan, or exchange is formalized with a foreign museum.

(xii) Ensure an official authorized to obligate the organization signs a certificate of assurance, as shown at Figure 3 of this section.

Figure 3. Sample Certificate of Assurance

For Military Department Use

hereinafter called "Applicant-Recipient" (name of applicant)

Hereby agrees that in compliance with section 2001a of Title 42, USC, section I of Title 40, U.S.C., as amended, and section 701 *et seq.* of Title 29, U.S.C., as amended, no person will, on the ground of race, color, national origin, sex, or handicap, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives a donation from the _____ _____ and applicable Military Department.

Hereby

Gives assurance that it will immediately take any measures necessary to effectuate this agreement.

This agreement will continue in effect during the time the Applicant-Recipient retains ownership, possession, or control of the donated property. Further, the Applicant-Recipient agrees and assures that its successors or assigns will be required to give an assurance similar to this assurance as a condition precedent to acquiring any right, title, or interest in and to any of the property donated herein.

This assurance is given in consideration of and for the purpose of obtaining donation of federally owned property pursuant to [cite applicable statute] consisting of the following items:

[Quantity and description of donated property. Use additional sheet if space is not adequate]

The Applicant-Recipient recognizes and agrees that such Federal donation will be made in reliance on the representations and agreements made in this assurance, and that the United States will have the right to seek judicial enforcement of this assurance.

This assurance is binding on the Applicant-Recipient, its successors, transferees, and assignees, and the person or persons whose signature appears below are authorized to sign this assurance on behalf of the Applicant-Recipient.

By

President, Chairman of the Board, or comparable authorized official
Address:

(xiii) Ensure proper documentation is finalized in accordance with DoD 4160.28–M Volumes 1–3 before the release of any property to an authorized recipient.

(A) Use the standard loan agreement in the format prescribed by Figure 4 of this section or a similar document providing the same data for accomplishing property loans.

Figure 4. Sample Standard Loan Agreement

For Military Department Use

By this agreement, made as of [insert date] between the United States of America, hereinafter called "the Government," represented by [insert name and title of government representative] and _____, called "the Borrower" incorporated and operating under the laws of the State of _____ and located at _____; and, pursuant to section 2572 of Title 10, U.S.C., the government hereby loans to _____ the following property: _____for the period commencing [insert date] and ending [insert date] with an option for annual renewal.

The Borrower has applied in writing by letter dated [insert date]for the loan of the above property, and hereby agrees to accept it on an "as is where is" basis, to be responsible for all arrangements and to assume and pay all costs, charges and expenses incident to the loan of this property, including the cost of preparation for transportation from _____ to _____, of disassembly, packing, crating, handling, transportation, and other actions incidental to the movement of the loaned property to the Borrower's location, [location of property (destination)].

The Borrower will obtain no interest in the loaned property by reason of this agreement and title will remain in the lender at all times.

The Borrower agrees to use the loaned property in a careful and prudent manner, not, without prior permission of the government, to modify it in any way which would alter the original form, design, or the historical significance of said property, to perform routine maintenance so as not reflect discredit on the government, and to display and protect it according to the instructions set forth in Table [#], incorporated herewith and made part of the loan agreement.

The Borrower agrees to accept physical custody of the property within [period of time], after execution of this agreement, to receipt to the government for said property on assuming custody of it to place it on exhibit within [period of time] , and to report annually to the Government on the condition and location of the property.

The Borrower agrees not to use the loaned property as security for any loan, not to sell, lease, rent, lend, or exchange the property for monetary gain or otherwise under any circumstances without the prior written approval of the lender.

The Borrower agrees to indemnify, hold harmless, and defend the Government from and against all claims, demands, action, liabilities, judgments, costs, and attorney's fees, arising out of claims on account of, or in any manner predicated upon personal injury,

death, or property damage caused by or resulting from possession or use of the loaned property.

The Borrower agrees to allow the authorized Department of Defense representatives access to the Borrower's records and facilities to assure accuracy of information provided by the Borrower and compliance with the terms of this loan agreement.

The Borrower agrees to return said property to the government on termination of this loan agreement or earlier, if it is determined that the property is not required, at no expense to the government.

The failure of the Borrower to observe any of the conditions set forth in the loan agreement and the Table (s) thereto will be sufficient cause of the Government to repossess the loaned property. Repossession of all or any part of the loaned property by the government will be made at no cost or expense to the government; the Borrower will defray all maintenance, freight, storage, crating, handling, transportation, and other charges attributable to such repossession.

The [insert "donee" or "borrower" as applicable depending upon the document type, i.e., conditional deed or gift of standard loan agreement, respectively] certifies they have read, understand and acknowledge that concealing a material fact and /or making a fraudulent statement in dealing with the Federal government may constitute a violation of section 1001 of Title 18, U.S.C.

Executed on behalf of the government this _____day of_____, 20_____, at_____.

United States of America:

By

Title

Agency:

Address:

The Borrower, through its authorized representative hereby accepts delivery of the loaned property subject to the terms and conditions contained in the loan agreement set forth above.

Executed on behalf of the Borrower, this_____day of_____, 20_____,

At Name of Borrower Organization By Title Address:

(B) Accomplish property donations made under this authority by use of the conditional deed of gift agreement inthe format prescribed in Figure 5 of this section or a similar document providing the same data.

Figure 5. Sample Conditional Deed of Gift

For Military Department Use

This agreement made as of_____ between the UNITED STATES OF AMERICA (hereinafter called the "government" or the "donor") represented by_____(hereinafter called "the donee" operating under the laws of the State of_____ located at_____.

WITNESS:

The Secretary is authorized by section 2572 of Title 10 U.S.C. to transfer by gift or loan, without expense to the United States and on terms prescribed by the Secretary, any obsolete combat property not needed by the Department. The donee is eligible under the terms of section 2572 of Title 10 U.S.C.

The donee has applied in writing by letter dated [insert date] for a _____ and has agreed to assume and pay all costs, charges, and expenses incident to the donation including the cost of any required DEMIL and of preparation for transportation to_____.

The Government agrees (a) to release [item name] (b) to notify the donee of the available date sufficiently in advance thereof to enable the donee to make necessary arrangements for acceptance.

The donee agrees to accept it on an "as is where is" basis and be responsible for all arrangements and costs involved in its movement. The donee will, at no cost to the Government, arrange and pay for disassembly, packing, crating, handling, transportation, and other actions as necessary for the movement of the donated property to the donee's location.

The donee will use the donated property in a careful and prudent manner, and will maintain it and make such repairs to it as are necessary to keep it in a clean and safe condition so that its appearance and use will not discredit the donee. Display instructions are set forth in Table [#] and are incorporated and made part of this conditional deed of gift. The donee also agrees to not use the donated property as security for any loan, nor sell, lease, rent, exchange the property for monetary gain or otherwise, under any circumstances without the prior approval of the donor.

The donee will indemnify, hold harmless, and defend the government from and against all claims, demands, action, liabilities, judgments, costs, and attorney's fees, arising out of claimed on account of, or in any manner predicated upon personal injury, death, or property damage caused by or resulting from possession or use of the donated property.

The donee agrees to allow the authorized representatives of the government access to the donee's records and facilities to assure accuracy of information provided the donor and compliance with the terms of this conditional deed of gift.

Title is transferred on special condition that the [item name] will not be transferred or otherwise disposed of (including re-donation) without the written consent of the donor. If disposition by any method (including re-donation) without consent of the donor is attempted, title to the property is subject to forfeiture and the government may require return of the property by the donee or may repossess the property from whomever may have possession thereof and the donee will bear all expense of return and repossession as well as all storage costs.

Upon the failure of the donee to observe any of the conditions set forth in the conditional deed of gift and Table thereto, title to the donated property will revert to and vest in the donor. Repossession of all or any part of the donated property by the donor will be at no cost or expense to the donor, and the donee will pay all maintenance freight, transportation, and other charges attributable to such possession.

When the _____is no longer needed by the donee, disposition instructions will be requested from the donor. All costs of disposition will be borne by the donee.

The [insert "donee" or "borrower" as applicable depending upon the document type, i.e., conditional deed or gift of standard loan agreement, respectively] certifies they have read, understand and acknowledge that concealing a material fact or making a fraudulent statement in dealing with the Federal Government may constitute a violation of section 1001 of Title 18 U.S.C.

Subject to the conditions set forth above, title to the property will vest in the donee upon receipt of written acceptance hereof the above.

Executed on behalf of the government this_____day of_____, 20____, at_____.

United States of America

By

Title:
Agency:
Address:

The donee, through its authorized representative hereby accepts title to and delivery of the donated property subject to the conditions in the deed of gift set forth above.
Executed on behalf of the donee, this_____day of_____, 20_____, at _____.

Name of donee organization By Title: Address

(C) Accomplish property exchanges made under this authority by use of the exchange agreement in the format prescribed in Figure 6 of this section or a similar document providing the same data. Items may not be exchanged until a determination is made that the item is not needed for operational requirements by another Military Department. If the council or similar staff review process considers it unlikely the item in question will be needed by another Military Department, screening may be omitted. A museum of one Military Department may not acquire for the purpose of exchanging historical items being screened by another Military Department museum.

Figure 6. Sample Exchange Agreement

For Military Department Use

It is mutually agreed by and between the [Service Name] Museum, [insert address] (hereinafter "Museum") and [insert name] Museum, [insert address] (hereinafter "Exchanger"), as follows:

Items to be exchanged by the museum: The Museum will provide to the Exchanger the following items:

[insert description, stock number, serial number, etc]

Items to be exchanged:

[insert description, stock number, serial number, etc]

Authority: This exchange is made under the authority of section 2572 of Title 10 U.S.C.

Delivery:

The items to be received by or services provided to the Museum from the Exchanger will be delivered or provided at the Exchanger's sole expense to [insert location]. They will be delivered or provided in one shipment all at the same time unless the Museum agrees otherwise in writing. They will be delivered or provided within 90 days of the date this agreement is signed. Title to the items to be received by the Museum will pass to the Museum at the time and point of delivery only upon written acceptance by an authorized representative of the Museum.

The items to be exchanged by the Museum to the Exchanger are currently located at [insert location address]. They are provided on an "as is, where is, with all faults" basis and there are no warranties expressed or implied. The Museum specifically provides no warranty or other assurance as to the condition or serviceability of the property. All items offered in exchange by the Museum are subject to a radiation survey and the removal of radioactive components as well as equipment DEMIL prior to release. They will not be released to the Exchanger until acceptance by the Museum according to the above paragraph.

Condition of items provided by the museum: The items to be exchanged by the Museum are offered to the Exchanger as is, where is, with all faults. The Museum provides no warranty or other assurance as to the condition or serviceability of the property.

Condition of items provided by exchange: The items to be exchanged are certified to be original and authentic by the exchanger, to be in good condition with no significant damage or deterioration, or other hidden faults which would jeopardize their long-term preservation or their use by the Museum for display or study.

Consummation of agreement: This agreement will be considered consummated upon delivery and acceptance by both parties of all items to be provided.

Release of liability: In consideration of this mutual exchange, the Exchanger agrees that it will hold the United States, its agencies, officers, employees, agents, and contractors harmless, indemnify, and defend them against any and all suits, actions, and claims of any kind whatsoever, including attorney fees, which may arise from or be the result of this exchange or the items.

Warranty of title: In the case of the items provided by the Exchanger, the Exchanger hereby warrants that it has title to the items and that there are no liens or encumbrances whatever against the said items. The Exchanger will provide to the Museum documentary proof of ownership in a manner and of a fashion satisfactory to the Director of the Museum prior to delivery.

Notices: All notices between the parties will be in writing and sent to the following addresses:

For the Museum: [insert Museum name and address]

For the Exchanger: [insert Museum name and address]

- The Exchanger will neither assign nor otherwise transfer this Agreement without the written prior agreement of the Director of the Museum.

In witness whereof, the parties or their authorized representatives have hereunto signed their names on the date indicated.

For the U.S. [insert Service museum name]

[insert signature, typed name]

Name and title date

Witnessed by

Name

Date

For the exchanger:

[insert signature, typed name]

Witnessed by

(xiv) Avoid stockpiling condemned or obsolete combat materiel in anticipation of future exchanges. Items that cannot be exchanged within a 2-year period should be processed for disposal.

(xv) Notify exchange recipients that the Department of Defense cannot certify aircraft, components, or parts as airworthy. Aircraft, components, or parts must be certified by the FAA as airworthy before being returned to flight usage. If available, logbooks and maintenance records for FSCAP must accompany the aircraft and FSCAP. If such documentation is not available, or if the aircraft or FSCAP have been crash-damaged or similarly compromised, the aircraft, components, or parts may not be exchanged, unless the FSCAP parts have been removed from the aircraft or component prior to the exchange. Waivers to this FSCAP documentation requirement may be considered on a case-by-case basis and are restricted to ''display only'' property (not parts); waivers will apply only to the exchange of the whole aircraft, aircraft engines, and aircraft components. The exchange agreement must explicitly cite the lack of documentation.

(xvi) Consider any adverse market impact that may result from the exchange of certain items. The Military Department should consult with outside organizations for market impact advice, as appropriate.

(xvii) Elect to donate property without conditions; for example, when the administrative costs to the Military Department to perform yearly checks would exceed the value of the property. Unconditional donations are restricted to books, manuscripts, works of art, drawings, plans and models, and historical artifacts valued at less than $10,000 that do not require DEMIL (see Figure 7 of this section).

Figure 7. Sample Unconditional Deed of Gift

For Military Department Use

This agreement is made between the United States of America (hereinafter called the "government" or the "donor") and the _____ (hereinafter called "the donee") operating under the laws of the State of _____located _____.

1. The government is authorized by section 2572 of Title 10, U.S.C. to transfer by gift or loan, not to exceed $10,000 of section 2572 of Title 10, U.S.C., without expense to the United States and on terms prescribed by the Secretary, any documents and historical artifacts, excluding any condemned and obsolete combat materiel not needed by the Department. The donee is eligible under the terms of section 2572 of Title 10, U.S.C.

2. The donee has applied in writing by letter dated [insert date] and has agreed to assume and pay all costs, charges, and expenses incident to the donation including the cost of any required demilitarization and of preparation for transportation.

3. The government agrees to release [insert item description] and to notify the donee of the available date sufficiently in advance thereof to enable the donee to make necessary arrangements for acceptance.

4. By this deed of gift the donor transfers title, conveys and assigns free and clear of all encumbrances, to the donee.

5. The donee agrees to accept it on an "as is where is" basis and be responsible for all arrangements and costs involved in its removal. The donee will, at no cost to the donor, arrange and pay for disassembly, packing, crating, handling, transportation, and other actions as necessary for the removal of the donated property to the donee's location.

6. The donor certifies that the donation is unsafe for operational use and is only suitable for static display. Any use of the donated property is fully and completely the responsibility of the donee.

7. The donee will indemnify, save harmless, and defend the donor from and against all claims, demands, action, liabilities, judgments, costs, and attorney's fees, arising out of claims on account of, or in any manner predicated upon personal injury, death, or property damage caused by or resulting from possession or use of the donated property.

8. Subject to the conditions set forth above, title to the property will vest in the donee upon receipt of written acceptance hereof from the donee.

Executed on behalf of the donor, this _____day of _____, 20_____.

At

United States of America

By

Title:

Agency

Address

The donee, through its authorized representative hereby accepts title to and delivery of the donated property subject to the conditions in the deed of gift set forth above.

Executed on behalf of the donee, this _____ day of _____, 20____, _____.

At

Name of donee organization

By

Title

Address State Agencies/Surplus Property. This will list the State Agencies in alphabetical order with contact information.

(6) *Military departments loans of bedding.* Consistent with 10 U.S.C. 2557, the Secretary of a Military Department may provide bedding in support of homeless shelters that are operated by entities other than the Department of Defense. Bedding may be provided to the extent that the Secretary determines the donation will not interfere with military requirements.

(7) *Army loans to veterans' organizations.* (i) The Department of the Army, in accordance with 10 U.S.C. 4683, may loan to recognized veterans' organizations (or local units of national veterans' organizations recognized by the U.S. Department of Veterans Affairs) obsolete or condemned rifles or cartridge belts for use by that unit for ceremonial purposes. Rifle loans to any one post, local unit, or municipality are limited by statute to not more than 10 rifles.

(ii) The Secretary of the Army, in accordance with 10 U.S.C. 4683 and Service-unique regulations prescribed by the Secretary, may conditionally lend or donate excess M–1 rifles (not more than 15), slings, and cartridge belts to any eligible organization for use by that organization for funeral ceremonies of a member or former member of the Military Services, and for other ceremonial purposes. If the loaned or donated properties under paragraph (d)(8)(i) of this section are to be used by the eligible organizations for funeral ceremonies of a member or former member of the Military Services, the Secretary may issue and deliver the rifles, together with the necessary accoutrements and blank ammunition, without charge.

(8) *Navy loans and donations.* (i) The Secretary of the Navy, in accordance with 10 U.S.C. 7545, may donate or loan captured, condemned, or obsolete ordnance materiel, books, manuscripts, works of art, drawings, plans, models, trophies and flags, and other condemned or obsolete materiel, as well as materiel of historical interest. The Secretary of the Navy may donate this material to any State, territory, commonwealth, or possession of the United States and political subdivision or municipal corporation thereof, the District of Columbia, libraries, historical societies, and educational institutions whose graduates or students were in World War I or World War II.

(A) Loans and donations made under this authority will be subject to the same guidelines for donations in accordance with 10 U.S.C. 2572.

(B) If materiel to be loaned or donated is of historic interest, the application will be forwarded through the Navy Curator.

(C) Donations made under this authority must first be referred to the Congress.

(D) Donations and loans made under 10 U.S.C. 7545 will be made with a conditional deed of gift (see Figure 5 of this section for sample wording).

(ii) In accordance with 10 U.S.C. 7306, the Secretary of the Navy, with approval of Congress, may donate obsolete, condemned, or captured Navy ships, boats, and small landing craft to the States, territories, or possessions of

the United States, and political subdivisions or municipal corporations thereof, the District of Columbia, or to associations or corporations whose charter or articles of agreement denies them the right to operate for profit. The Navy restricts the use of donated vessels for use in static display purposes only (*i.e.,* as memorials or museums).

(A) Applications for ships, boats, and small landing craft will be submitted to the Commander, Naval Sea Systems Command (NSEA 00DG), 2531 Jefferson Davis Highway, Arlington, VA 22240–5160.

(B) Before submission of an application, the applicant must locate obsolete, condemned, or captured Navy ships, boats, and small landing craft which are available for transfer.

(iii) Each application will contain:

(A) Type of vessel desired, or in the case of combatant vessels, the official Navy identification of the vessel desired.

(B) Statement of the proposed use to be made of the vessel and where it will be located.

(C) Statement describing and confirming availability of a berthing site and the facilities and personnel to maintain the vessel.

(D) Statement that the applicant agrees to maintain the vessel, at its own expense, in a condition satisfactory to the Department of the Navy, in accordance with instructions that the Department may issue, and that no expense will result to the United States as a consequence of such terms and conditions prescribed by the Department of the Navy.

(E) Statement that the applicant agrees to take delivery of the vessel ''as is, where is'' at its berthing site and to pay all charges incident to such delivery, including without limitation preparation of the vessel for removal or tow, towing, insurance, and berthing or other installation at the applicant's site.

(F) Statement of financial resources currently available to the applicant to pay the costs required to be assumed by a donee. The statement should include a summary of sources, annual income, and annual expenditures exclusive of the estimated costs attributable to the requested vessel to permit an evaluation of funds available for upkeep of the vessel. In the event the applicant will rely on commitments of donated services and materials for maintenance and use of the vessel, such commitments must be described in detail.

(G) Statement that the applicant agrees that it will return the vessel, if and when requested to do so by the Department of the Navy, during a national emergency, and will not, without the written consent of the Department, use the vessel other than as stated in the application or destroy, transfer, or otherwise dispose of the vessel.

(H) If the applicant asserts it is a corporation or association whose charter or articles of agreement denies it the right to operate for profit, their application must also contain a copy of the organization's bylaws and either:

(*1*) A properly authenticated copy of the charter.

(*2*) Certificate of incorporation.

(*3*) Articles of agreement made either by:

(*i*) The Secretary of State or other appropriate officials of the State under the laws where the applicant is incorporated.

(*ii*) Organized or other appropriate public official having custody of such charter, certificate or articles.

(I) If the applicant is not incorporated, their application must also include the citation of the law and a certified copy of the association's charter stating it is empowered to hold property and to be bound by the acts of the proposed signatories to the donation agreement.

(J) If the applicant is not a State, territory, or possession of the United States, a political subdivision or municipal corporation thereof, or the District of Columbia, the application must also include a copy of a determination by the Internal Revenue Service that the applicant is exempt from tax under the Internal Revenue Code.

(K) A notarized copy of the resolution or other action of its governing board or membership authorizing the person signing the application to represent the organization and to sign on its behalf to acquire a vessel.

(L) A signed copy of the assurance of compliance.

(M) A statement that the vessel will be used as a static display only as a memorial or museum and no system aboard the vessel will be activated or permitted to be activated for the purpose of navigation or movement under its own power.

(N) A statement that the galley will not be activated for serving meals.

(iv) Upon receipt, the Navy will determine the eligibility of the applicant to receive a vessel by donation. If eligible, the formal application will be processed and notice of intention to donate presented to the Congress as required by 10 U.S.C. 7306, provided the applicant has presented evidence satisfactory to the government that the applicant has adequate financial means to accomplish all of the obligations required under a donation contract. The Navy will have authority to donate only after the application has been before the Congress for a period of 60 days of continuous session without adverse action by the Congress in accordance with 10 U.S.C. 7306.

(v) All vessels, boats, and service craft, donated in accordance with 10 U.S.C. 7306, will be used as static displays only for use as memorials and cannot be activated for the purpose of navigation or movement under its own power. Donations of vessels under any other authority of this section are subject to certain inspection and certification requirements. Applicants for vessels or service craft will be advised in writing by the office taking action on the applications that, should their request be approved and before operation of the vessel or service craft, one of the following stipulations will apply:

(A) The donee agrees that if the vessel is 65 feet in length or less, it may not be operated without a valid certificate of inspection issued by the U.S. Coast Guard, while carrying more than six passengers, as defined in 46 U.S.C. 2101(21)(B).

(B) The donee agrees that if the vessel is more than 65 feet in length, it may not be operated without a valid certificate of inspection issued by the U.S. Coast Guard.

(vi) In accordance with 10 U.S.C. 7546 and subject to the approval of the Navy Museum Curator, the nameplate or any small article of a negligible or sentimental value from a ship may be loaned or donated to any individual who sponsored that ship provided that such loan or donation will be at no expense to the Navy.

(9) *Donation of excess chapel property.* In accordance with 10 U.S.C. 2580, the Secretary of a Military Department may donate excess personal property to religious organizations (as described in 26 U.S.C. 501), for the purposes of assisting such organizations in restoring or replacing property of the organization that has been damaged or destroyed as a result of arson or terrorism. The property authorized for donation will be limited to ecclesiastical equipment, furnishings and supplies that fall within FSC 9925, and furniture.

(10) *Disposition after use of special donations (gifts), loans, and exchanges.* (i) The requirements of the recipient organization are:

(A) For materiel no longer desired or authorized for continued use by a recipient organization, the Military Department will advise the recipient organization if it wants to repossess the property. Regardless of the

determination made, care will be taken to ensure the recipient organization fulfills its responsibility to finalize the disposition action at no cost to the government. Repossession of the property will be governed by the property's historical significance, its potential for use in behalf of other requests, or its estimated sale value, if sold by the Department of Defense. Repossession of property will be documented; copies of the documentation will be retained by the donee and lender.

(B) Based on type of property, its location, etc., it is not always feasible to require the physical movement of the property to the nearest DLA Disposition Services site. In these cases, the owning Military Department may elect to work with DLA Disposition Services for receipt and sale in-place, when economically feasible.

(ii) Return of property donated to the Navy is subject to the approval of the Curator for the Department of the Navy. Any article, materiel, or equipment, including silver service, loaned or donated to the naval service by any State, group, or organization may be returned to the lender or donee in accordance with 10 U.S.C. 7546. When the owner cannot be located after a reasonable search, or if, after being offered the property, the owner states in writing that the return of the property is not desired, the property will be disposed of in the same manner as other surplus property.

(e) *Disaster assistance for States.* 42 U.S.C. chapter 68 allows for disaster assistance to States.

(1) 42 U.S.C. chapter 68, also known and referred to in this rule as ''The Stafford Act'' authorizes federal assistance to States, local governments, and relief organizations. Upon declaration by the President of an emergency or a major disaster, under, the Stafford Act, the State receiving the declaration is notified immediately and a notice of the declaration is published in the **Federal Register** by the Federal Emergency Management Agency (FEMA).

(2) Excess personal property may be loaned to State and local governments for use or distribution for emergency or major disaster assistance purposes. Such uses may include the restoration of public facilities that have been damaged as well as the essential rehabilitation of individuals in need of major disaster assistance. The availability of Federal assistance under the Stafford Act is subject to the time periods prescribed in FEMA regulations.

(f) *Academic institutions and non-profit organizations.* Educational partnership (or other) agreements may be established for the loan or donation of property.

(1) Under an educational partnership (or other) agreement, and consistent with 10 U.S.C. 2194, the Secretary of Defense authorized the director of each defense laboratory to enter into one or more educational partnership agreements with U.S. educational institutions for the purpose of encouraging and enhancing study in scientific disciplines at all levels of education. The educational institutions will be local educational agencies, colleges, universities, and any other nonprofit institutions that are dedicated to improving science, mathematics, and engineering education. The point of contact is the DoD Technology Transfer Program Manager, Suite 1401 Two Skyline Place, 5203 Leesburg Pike, Falls Church, VA 22041–3466.

(2) In accordance with 15 U.S.C. 3710(i), the director of a DoD laboratory may directly transfer (donate) laboratory (*e.g.,* scientific, research) equipment that is excess to the needs of that laboratory to public and private schools and nonprofit institutions in the U.S. zone of interior (ZI).

(3) Determinations of property suitable for donation will be made by the head of the laboratory. Property will be screened within the DoD laboratory and scientific community prior to release.

(4) Laboratories should be aware that some property might be environmentally regulated and, if exported, may require a U.S. DoS or Commerce export license, including certain circumstances where exports to foreign parties take place in the U.S. Moreover, some property may require DEMIL. Standard eligibility criteria must be ensured and a screening process for determining trade and security control risk are mandatory.

§ 273.9 Through-life traceability of uniquely identified items.

(a) *Authority and scope*—(1) *Property accountability.* The accountability of property will be enabled by IUID for identification, tracking, and management in accordance with DoD Instruction 5000.64 and DoD Directive 8320.03, ''Unique Identification (UID) Standards for a Net-Centric Department of Defense'' (*http://www.acq.osd.mil/dpap/UID/attachments/832003p1–20070420.pdf*). DoD Component heads post changes to the property records for all transactions as required (*e.g.,* loan, loss, damage, disposal, inventory adjustments, item modification, transfer, sale) pursuant to DoD Instruction 5000.64.

(2) *IUID.* IUID provides a standards-based approach to establish a UII encoded in a machine-readable two-dimensional data matrix barcode that serves to distinguish a discrete item from other items. Qualifying items as defined by DoD Instruction 8320.04, ''Item Unique Identification (IUID) Standards for Tangible Personal Property'' (*http://www.dtic.mil/whs/directives/corres/pdf/832004p.pdf*) will be marked with a two-dimensional Data Matrix barcode in accordance with Military Standard 130N, ''Department of Defense Standard Practice Identification Marking of U.S. Military Property'' (available at *http://www.acq.osd.mil/dpap/pdi/uid/docs/mil-std130N_ch1.pdf*) and registered in the IUID Registry.

(3) *Identification marking of U.S. military property.* Military Standard 130N provides the item marking criteria for development of specific marking requirements and methods for identification of items of military property produced, stocked, stored, and issued by or for the DoD. It also provides the criteria and data content for both free text and machine-readable information applications of item identification two-dimensional data matrix marking and includes the IUID requirements of DoD Instruction 8320.04.

(4) *Registration of UIIs.* Enclosure 3 of DoD Instruction 8320.04 provides procedures for the registration of UIIs in the DoD IUID Registry.

(b) *Updating the DoD IUID Registry*—(1) *Obtaining user access.* Authorized Government users may add items, update, and add events to existing items. Generating activities and DLA Disposal Services can register for access by following the instructions for the Business Partner Network Support Environment Registration System at *https://iuid.logisticsinformationservice.dla.mil/BRS*.

(2) *Life-cycle events for materiel disposition.* When an item leaves DoD inventory, its status, or life-cycle event, must be changed in the DoD IUID. A drop-down menu in the registry contains the possible life-cycle events: abandoned, consumed, destroyed by accident, destroyed by combat, donated, exchanged—repair, exchanged—sold, exchanged—warranty, expended—experimental/target, expended—normal use, leased, loaned, lost, reintroduced, retired, scrapped, sold—foreign government, sold—historic, sold—nongovernment, sold—other federal, sold—state/local, and stolen.

(3) *Updating procedures.* When an item that is marked with a UII enters the

materiel disposition process through a transfer between Components or if the item leaves DoD inventory, an update to the IUID Registry is required. Procedures for performing required updates to the IUID Registry can be found in the IUID registry user manual available at *https://iuid.logisticsinformationservice.dla.mil.*

Subpart B—Reutilization, Transfer, and Sale of Property

§ 273.10 Purpose.

(a) This part is composed of several subparts, each containing its own purpose. In accordance with the authority in DoD Directive 5134.12, ''Assistant Secretary of Defense for Logistics and Materiel Readiness (ASD(L&MR)),'' DoD Instruction 4140.01, ''DoD Supply Chain Materiel Management Policy,'' and DoD Instruction 4160.28, ''DoD Demilitarization (DEMIL) Program,'' this part establishes the sequence of processes for the disposition of personal property of the DoD Components.

(b) This subpart:

(1) Implements policy for reutilization, transfer, excess property screening, and issue of surplus property and foreign excess personal property (FEPP), scrap released by qualified recycling programs (QRPs), and non-QRP scrap.

(2) Provides guidance for removing excess material through security assistance programs and foreign military sales (FMS).

(3) Provides detailed instructions for the sale of surplus property and FEPP, scrap released by QRPs, and non-QRP scrap.

§ 273.11 Applicability.

(a) This subpart applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereinafter referred to collectively as the ''DoD Components'').

(b) 41 CFR chapters 101 and 102, also known as the Federal Property Management Regulation and Federal Management Regulation (FPMR and FMR), and 40 U.S.C. subtitle I, also known as the Federal Property and Administrative Services, take precedence over this part if a procedural conflict exists.

§ 273.12 Definitions.

Unless otherwise noted, these terms and their definitions are for the purpose of this subpart:

Abandonment and destruction (A/D). A method for handling property that:

(1) Is abandoned and a diligent effort to determine the owner is unsuccessful.

(2) Is uneconomical to repair or the estimated costs of the continued care and handling of the property exceeds the estimated proceeds of sale.

(3) Has an estimated cost of disposal by A/D that is less than the net sales cost.

Accountability. The obligation imposed by law, lawful order, or regulation accepted by a person for keeping accurate records to ensure control of property, documents, or funds with or without possession of the property. The person who is accountable is concerned with control, while the person who has possession is responsible for custody, care, and safekeeping.

Accountable officer. The individual responsible for acquiring and maintaining DoD items of supply (physical property and records), approving property orders (including reutilization of excess property requests), and authenticating materiel release orders (MROs). Comparative terms are: Army Supply Support Accountable Officer, Navy Accountable Officer, Air Force Accountable Officer/Chief of Supply Materiel Support Division, Marine Corps Unit Supply Officer.

Acquisition cost. The amount paid for property, including transportation costs, net any trade and cash discounts. Also see standard price.

Ammunition. Generic term related mainly to articles of military application consisting of all kinds of bombs, grenades, rockets, mines, projectiles, and other similar devices or contrivances.

Batchlot. The physical grouping of individual receipts of low-dollar-value property. The physical grouping consolidates multiple disposal turn-in documents (DTIDs) under a single cover DTID. The objective of batchlotting is to reduce the time and costs related to physical handling and administrative processes required for receiving items individually. The cover DTID establishes accountability in the accountable record, and individual line items lose their identity.

Bid. A response to an offer to sell, that, if accepted, would bind the bidder to the terms and conditions of the contract (including the bid price).

Bidder. Any entity that is responding to or has responded to an offer to sell.

Commerce control list (CCL) items (formerly known as strategic list item). Commodities, software, and technology subject to export controls in accordance with Export Administration Regulations (EAR) in 15 CFR parts 730 through 774. The EAR contains the CCL and is administered by the Bureau of Industry and Security, DOC.

Component. An item that is useful only when used in conjunction with an end item. Components are also commonly referred to as assemblies. For purposes of this definition an assembly and a component are the same. There are two types of ''components: Major components and minor components. A major component includes any assembled element which forms a portion of an end item without which the end item is inoperable. For example, for an automobile, components will include the engine, transmission, and battery. If you do not have all those items, the automobile will not function, or function as effectively. A minor component includes any assembled element of a major component. Components'' consist of parts. References in the CCL to components include both major components and minor components.

Continental United States (CONUS). Territory, including the adjacent territorial waters, located within the North American continent between Canada and Mexico (comprises 48 States and the District of Columbia).

Contractor inventory. (1) Any property acquired by and in the possession of a contractor or subcontractor (including Government-furnished property) under a contract, terms of which vest title in the U.S. Government (USG) and in excess of the amounts needed to complete full performance under the entire contract.

(2) Any property for which the USG is obligated to or has an option to take over under any type of contract resulting from changes in the specifications or plans or termination of such contract (or subcontract) before completion of the work, for the convenience of or at the option of the USG.

Defense Logistics Agency (DLA) Disposition Services. The organization provides DoD with worldwide reuse, recycling and disposal solutions that focus on efficiency, cost avoidance and compliance.

DLA Disposition Services site. The DLA Disposition Services office that has accountability for and control over disposable property. May be managed in part by a commercial contractor. The term is applicable whether the disposal facility is on a commercial site or a

Government installation and applies to both Government and contractor employees performing the disposal mission.

Demilitarization (DEMIL) Code A. DEMIL not required.

DEMIL. The act of eliminating the functional capabilities and inherent military design features from DoD personal property. Methods and degree range from removal and destruction of critical features to total destruction by cutting, crushing, shredding, melting, burning, etc. DEMIL is required to prevent property from being used for its originally intended purpose and to prevent the release of inherent design information that could be used against the United States. DEMIL applies to material in both serviceable and unserviceable condition.

Disposal. End-of-life tasks or actions for residual materials resulting from demilitarization or disposition operations.

Disposition. The process of reusing, recycling, converting, redistributing, transferring, donating, selling, demilitarizing, treating, destroying, or fulfilling other end of life tasks or actions for DoD property. Does not include real (real estate) property.

Diversion. Includes collection, separation, and processing of material for use as raw material in the manufacture of goods sold or distributed in commerce or the reuse of material as substitutes for goods made of virgin material.

DoD Activity Address Code (DoDAAC). A 6-digit code assigned by the Defense Automatic Addressing System (DAAS) to provide a standardized address code system for identifying activities and for use in transmission of supply and logistics information that supports the movement of property.

DoD Item Unique Identification (IUID) Registry. The DoD data repository that receives input from both industry and Government sources and provides storage of, and access to, data that identifies and describes tangible Government personal property.

Donation. The act of providing surplus personal property at no charge to a qualified donation recipient, as allocated by the General Services Administration (GSA).

Educational institution. An approved, accredited, or licensed public or nonprofit institution or facility, entity, or organization conducting educational programs, including research for any such programs, such as a childcare center, school, college, university, school for the mentally handicapped, school for the physically handicapped, or an educational radio or television station.

End of screening date. The date when formal reutilization, transfer, and donation screening time expires.

Estimated fair market value. The selling agency's best estimate of what the property would be sold for if offered for public sale.

Excess personal property. (1) *Domestic excess.* Personal property that the United States and its territories and possessions, applicable to areas covered by GSA (*i.e.,* the 50 States, District of Columbia, Puerto Rico, American Samoa, Guam, Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and the U.S. Virgin Islands), consider excess to the needs and mission requirements of the United States.

(2) *DoD Component excess.* Items of DoD Component owned property that are not required for their needs and the discharge of their responsibilities as determined by the head of the Service or Agency.

(3) *Foreign excess personal property (FEPP).* U.S.-owned excess personal property that is located outside the ZI. This property becomes surplus and is eligible for donation and sale as described in § 273.15(b).

Federal civilian agency (FCA). Any non-defense executive agency (*e.g.* DoS, Department of Homeland Security) or any establishment in the legislative or judicial branch of the USG (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his or her direction).

Federal condition code. A two-digit code consisting of an alphabet supply condition code in the first digit, and a numeric or alphabet disposal condition code (DCC) in the second digit. A combination of the supply condition code and the DCC, which most accurately describes the materiel's physical condition.

(1) *Disposal condition code (DCC).* Codes assigned by the DLA Disposition Services site based upon inspection of materiel at time of receipt.

(2) *Supply condition codes.* Codes used to classify materiel in terms of readiness for issue and use or to identify action underway to change the status of materiel. These codes are assigned by the DoD Components. DLA Disposition Services may change a supply condition code if the code was assigned improperly and the property is of a non-technical nature. If change is not appropriate or property is of a technical nature, DLA Disposition Services sites may challenge a suspicious supply condition code.

FEPP. See excess personal property.

Foreign military sales (FMS). A process through which eligible foreign governments and international organizations may purchase defense articles and services from the USG. A government-to-government agreement, documented in accordance with DoD 5105.38–M.

Foreign purchased property. Property paid for by foreign countries, but where ownership is retained by the United States.

Generating activity (''generator''). The activity that declares personal property excess to its needs.

Government furnished equipment. An item of special tooling, special test equipment, or equipment, in the possession of, or directly acquired by, the Government and subsequently furnished to the contractor for the performance of a contract.

Government furnished materiel. Property provided by the U.S. Government for the purpose of being incorporated into or attached to a deliverable end item or that will be consumed or expended in performing a contract. Government-furnished materiel includes assemblies, components, parts, raw and process material, and small tools and supplies that may be consumed in normal use in performing a contract. Government-furnished materiel does not include material provided to contractors on a cash-sale basis nor does it include military property, which are government-owned components, contractor acquired property, government furnished equipment, or major end items being repaired by commercial contractors for return to the government.

GSAXcess®. A totally web-enabled platform that eligible customers use to access functions of GSAXcess® for reporting, searching, and selecting property. This includes the entry site for the Federal Excess Personal Property Utilization Program and the Federal Surplus Personal Property Donation Program operated by the GSA.

Hazardous property (HP). A composite term to describe DoD excess property, surplus property, and FEPP, which may be hazardous to human health, human safety, or the environment. Various Federal, State, and local safety and environmental laws regulate the use and disposal of HP. In more technical terms, HP includes property having one or more of the following characteristics:

(1) Has a flashpoint below 200° F (93° C) closed cup, or is subject to spontaneous heating or is subject to polymerization with release of large amounts of energy when handled,

stored, and shipped without adequate control.

(2) Has a threshold limit value equal to or below 1,000 parts per million for gases and vapors, below 500 milligrams per cubic meter (mg/m^3) for fumes, and equal to or less than 30 million particles per cubic foot or 10 mg/m^3 for dusts (less than or equal to 2.0 fibers per cubic centimeter greater than 5 micrometers in length for fibrous materials).

(3) Causes 50 percent fatalities to test animals when a single oral dose is administered in doses of less than 500 mg per kilogram of test animal weight.

(4) Is a flammable solid as defined in 49 CFR 173.124, or is an oxidizer as defined in 49 CFR 173.127, or is a strong oxidizing or reducing agent with a half cell potential in acid solution of greater than +1.0 volt as specified in Latimer's table on the oxidation-reduction potential.

(5) Causes first-degree burns to skin in short-time exposure or is systematically toxic by skin contact.

(6) May produce dust, gases, fumes, vapors, mists, or smoke with one or more of the characteristics in the course of normal operations.

(7) Produces sensitizing or irritating effects.

(8) Is radioactive.

(9) Has special characteristics which, in the opinion of the manufacturer, could cause harm to personnel if used or stored improperly.

(10) Is hazardous in accordance with 29 CFR part 1910, also known as the Occupational Safety and Health Standards.

(11) Is hazardous in accordance with 49 CFR parts 171 through 179.

(12) Is regulated by the Environmental Protection Agency in accordance with 40 CFR parts 260 through 280.

Hazardous waste (HW). An item that is regulated pursuant to 42 U.S.C. 6901 or by State regulation as an HW. HW is defined federally at 40 CFR part 261. Overseas, HW is defined in the applicable final governing standards or overseas environmental baseline guidance document, or host nation laws and regulations.

Identical bid. Bids for the same item of property having the same total price.

Industrial scrap. Consists of short ends, machinings, spoiled materials, and similar residue generated by an industrial-funded activity.

Information technology. Any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission or reception of data or information by the DoD Component. Includes computers, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related sources. Does not include any equipment that is acquired by a Federal contractor incidental to a Federal contract. Equipment is ''used'' by a DoD Component if the equipment is used by the DoD Component directly or is used by a contractor under a contract with the DoD Component that:

(1) Requires the use of such equipment.

(2) Requires the use to a significant extent of such equipment in the performance of a service or the furnishing of a product.

Installation. A military facility together with its buildings, building equipment, and subsidiary facilities such as piers, spurs, access roads, and beacons.

International organizations. For trade security control purposes, this term includes: Columbo Plan Council for Technical Cooperation in South and Southeast Asia; European Atomic Energy Community; Indus Basin Development; International Atomic Energy; International Red Cross; NATO; Organization of American States; Pan American Health Organization; United Nations (UN); UN Children's Fund; UN Development Program; UN Educational, Scientific, and Cultural Organization; UN High Commissioner for Refugees Programs; UN Relief and Works Agency for Palestine Refugees in the Near East; World Health Organization; and other international organizations approved by a U.S. diplomatic mission.

Interservice. Action by one Military Department or Defense Agency ICP to provide materiel and directly related services to another Military Department or Defense Agency ICP (either on a recurring or nonrecurring basis).

Inventory adjustments. Changes made in inventory quantities and values resulting from inventory recounts and validations.

Inventory control point (ICP). An organizational unit or activity within the DoD supply system that is assigned the primary responsibility for the materiel management of a group of items either for a particular Military Department or for the DoD as a whole. In addition to materiel manager functions, an ICP may perform other logistics functions in support of a particular Military Department or for a particular end item (*e.g.,* centralized computation of retail requirements levels and engineering tasks associated with weapon system components).

Item unique identification (IUID). A system of establishing globally widespread unique identifiers on items of supply within the DoD, which serves to distinguish a discrete entity or relationship from other like and unlike entities or relationships. Automatic identification technology is used to capture and communicate IUID information.

Law enforcement agencies (LEAs). Government agencies whose primary function is the enforcement of applicable Federal, State, and local laws, and whose compensated law enforcement officers have powers of arrest and apprehension.

Local screening. The onsite review of excess, surplus, and FEPP for reutilization, transfer, and donation.

MAP property. U.S. security assistance property provided under 22 U.S.C.2151, also known as the Foreign Assistance Act, generally on a non-reimbursable basis.

Marketing. The function of directing the flow of surplus and FEPP to the buyer, encompassing all related aspects of merchandising, market research, sale promotion, advertising, publicity, and selling.

Material potentially presenting an explosive hazard (MPPEH). Material owned or controlled by the Department of Defense that, prior to determination of its explosives safety status, potentially contains explosives or munitions (*e.g.,* munitions containers and packaging material; munitions debris remaining after munitions use, demilitarization, or disposal; and range-related debris) or potentially contains a high enough concentration of explosives that the material presents an explosive hazard (*e.g.,* equipment, drainage systems, holding tanks, piping, or ventilation ducts that were associated with munitions production, demilitarization, or disposal operations). Excluded from MPPEH are munitions within the DoD-established munitions management system and other items that may present explosion hazards (*e.g.,* gasoline cans and compressed gas cylinders) that are not munitions and are not intended for use as munitions.

Munitions list item (MLI). Any item contained on the USML in 22 CFR part 121. Defense articles, associated technical data (including software), and defense services recorded or stored in any physical form, controlled by 22 CFR parts 120 through 130. 22 CFR part 121, which contains the USML, is administered by the DoS Directorate of Defense Trade Controls.

Museum, DoD or Service. An appropriated fund entity that is a permanent activity with a historical collection, open to both the military and

civilian public at regularly scheduled hours, and is in the care of a professional qualified staff that performs curatorial and related historical duties full time.

Mutilation. A process that renders materiel unfit for its originally intended purposes by cutting, tearing, scratching, crushing, breaking, punching, shearing, burning, neutralizing, etc.

National stock number (NSN). The 13-digit stock number replacing the 11-digit federal stock number. It consists of the 4-digit federal supply classification code and the 9-digit national item identification number. The national item identification number consists of a 2-digit National Codification Bureau number designating the central cataloging office (whether North Atlantic Treaty Organization or other friendly country) that assigned the number and a 7-digit (xxx-xxxx) nonsignificant number. Arrange the number as follows: 9999–00–999–9999.

Nonappropriated funds (NAF). Funds generated by DoD military and civilian personnel and their dependents and used to augment funds appropriated by Congress to provide a comprehensive, morale building, welfare, religious, educational, and recreational program, designed to improve the well-being of military and civilian personnel and their dependents.

NAF property. Property purchased with NAFs, by religious activities or nonappropriated morale welfare or recreational activities, post exchanges, ships stores, officer and noncommissioned officer clubs, and similar activities. Such property is not Federal property.

Nonprofit institution. An institution or organization, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held to be tax exempt under the provisions of 26 U.S.C. 501, also known as the Internal Revenue Code of 1986.

Personal property. Property except real property. Excludes records of the Federal Government, battleships, cruisers, aircraft carriers, destroyers, and submarines.

Precious metals recovery program (PMRP). A DoD program for identification, accumulation, recovery, and refinement of precious metals (PM) from excess and surplus end items, scrap, hypo solution, and other PM bearing materiel for authorized internal purposes or as Government furnished materiel.

Precious metals (PM). Gold, silver, and the platinum group metals (platinum, palladium, iridium, rhodium, osmium, and ruthenium).

Privately owned personal property. Personal effects of DoD personnel (military or civilian) that are not, nor will ever become, government property unless the owner (or heirs, next of kin, or legal representative of the owner) executes a written and signed release document unconditionally giving the USG all right, title, and interest in the privately owned property.

Qualified recycling programs (QRP). Organized operations that require concerted efforts to cost effectively divert or recover scrap or waste, as well as efforts to identify, segregate, and maintain the integrity of recyclable material to maintain or enhance its marketability. If administered by a DoD Component, a QRP includes adherence to a control process providing accountability for all materials processed through program operations.

Radioactive material. Any material or combination of materials that spontaneously emits ionizing radiation and which is subject to regulation as radioactive or nuclear material under any Federal law or regulation.

Reclamation. A cost avoidance or savings measure to recover useful (serviceable) end items, repair parts, components, or assemblies from one or more principal end items of equipment or assemblies (usually Supply condition codes (SCCs), H, P, and R) for the purpose of restoration to use through replacement or repair of one or more unserviceable, but repairable principal end item of equipment or assemblies (usually SCCs E, F, and G). Reclamation is preferable prior to disposition (*e.g.,* DLA Disposition Services site turn-in), but end items or assemblies may be withdrawn from DLA Disposition Services site for reclamation purposes.

Responsibility criteria. The situations outlined in 41 CFR chapter 102 that require some certifications from buyers; either that the buyer knows they need to take care of the property because of its characteristics, or because the buyer must meet certain professional or licensing criteria.

Responsive bid. A bid that meets all the terms, conditions, and specifications necessary.

Restricted parties. Those countries or entities that the Department of State (DoS), Department of Commerce (DOC), or Treasury have determined to be prohibited or sanctioned for the purpose of export, sale, transfer, or resale of items controlled on the United States Munitions List (USML) or CCL. A consolidated list of prohibited entities or destinations for which transfers may be limited or barred, may be found at: *http://export.gov/ecr/eg_main_023148.asp.*

Reutilization. The act of re-issuing FEPP and excess property to DoD Components. Also includes qualified special programs (*e.g.,* LEA, Humanitarian Assistance Program (HAP), Military Affiliate Radio System (MARS)) pursuant to applicable enabling statutes.

Reutilization screening. The act of reviewing, either by automated or physical means, available FEPP, excess or surplus personal property to meet known or anticipated requirements.

Sales contract. An agreement between two parties, binding upon both, to transfer title of specified property for a consideration.

Sales contracting officer (SCO). An individual who has been duly appointed and granted the authority conferred by law according to the procedures in this part to sell surplus and FEPP by any of the authorized and prescribed methods of sale. Also referred to as the SAR.

Scrap. Recyclable waste and discarded materials derived from items that have been rendered useless beyond repair, rehabilitation, or restoration such that the item's original identity, utility, form, fit and function have been destroyed. Items can be classified as scrap if processed by cutting, tearing, crushing, mangling, shredding, or melting. Intact or recognizable USML or CCL items, components, and parts are not scrap. 41 CFR 102–36.40 provides additional information on scrap.

Screening. The process of physically inspecting property or reviewing lists or reports of property to determine whether it is usable or needed.

Screening period. The period in which excess and surplus personal property is made available for reutilization, transfer, or surplus donation to eligible recipients.

Security assistance. A group of programs, authorized by law, that allows the transfer of military articles and services to friendly foreign governments.

Small arms and light weapons. Man-portable weapons made or modified to military specifications for use as lethal instruments of war that expel a shot, bullet, or projectile by action of an explosive. Small arms are broadly categorized as those weapons intended for use by individual members of armed or security forces. They include handguns; rifles and carbines; sub-machine guns; and light machine guns. Light weapons are broadly categorized as those weapons designed for use by two or three members of armed or security forces serving as a crew,

although some may be used by a single person. They include heavy machine guns; hand-held under-barrel and mounted grenade launchers; portable anti-aircraft guns; portable anti-tank guns; recoilless rifles; man-portable launchers of missile and rocket systems; and mortars.

Solid waste. Includes garbage, refuse, and other discarded materials, including solid waste materials resulting from industrial, commercial, and agricultural operations, and from community activities. Includes solids, liquid, semi-solid or contained gaseous material which is discarded and not otherwise excluded by statute or regulation. Mining and agricultural solid wastes, hazardous wastes (HW), sludge, construction and demolition wastes, and infectious wastes are not included in this category.

Special programs. Programs specified by legislative approval, such as FMS, LEAs and fire fighters, identified on DLA Disposition Services Web site (*https://www.dispositionservices.dla.mil/rtd03/miscprograms.shtml*).

State agency for surplus property (SASP). The agency designated under State law to receive Federal surplus personal property for distribution to eligible donation recipients within the States as provided for in 40 U.S.C. 549.

State or local government. A State, territory, or possession of the United States, the District of Columbia, and any political subdivision or instrumentality thereof.

Transfer. The act of providing FEPP and excess personal property to FCAs as stipulated in the FMR. Property is allocated by the GSA.

Transfer order. Document (SF 122 and SF 123) issued by DLA Disposition Services or the headquarters or regional office of GSA directing issue of excess personal property.

Trade security control (TSCs). Policy and procedures, in accordance with DoD Instruction 2030.08, designed to prevent the sale or shipment of USG materiel to any person, organization, or country whose interests are unfriendly or hostile to those of the United States and to ensure that the disposal of DoD personal property is performed in compliance with U.S. export control laws and regulations, the International Traffic in Arms Regulations (ITAR) in 22 CFR parts 120 through 130, and the EAR in 15 CFR parts 730 through 774.

Unique item identifier (UII). A set of data elements marked on an item that is globally unique and unambiguous. The term includes a concatenated UII or a DoD recognized unique identification equivalent.

Usable property. Commercial and military type property other than scrap and waste.

Wash-post. A methodology for transfer of accountability to the DLA Disposition Services site whereby the DLA Disposition Services site only accepts accountability at the time they also document a release from the account, through reutilization, transfer, donation, sales, or disposal.

Zone of interior (ZI). The United States and its territories and possessions, applicable to areas covered by GSA and where excess property is considered domestic excess. Includes the 50 States, District of Columbia, Puerto Rico, American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands.

§ 273.13 Policy.

It is DoD policy consistent with 41 CFR chapters 101 and 102 that excess DoD property must be screened and redistributed among the DoD Components, and reported as excess to the GSA. Pursuant to 40 U.S.C. 701, DoD will efficiently and economically dispose DoD FEPP.

§ 273.14 Responsibilities.

(a) The Assistant Secretary of Defense for Logistics and Materiel Readiness (ASD(L&MR)), under the authority, direction, and control of the USD(AT&L), and in accordance with DoD Directive 5134.12:

(1) Develops DoD materiel disposition policies, including policies for FEPP.

(2) Oversees the effective implementation of the DoD materiel disposition program.

(3) Approves changes to FEPP procedures as appropriate to support contingency operations.

(b) The Director, Defense Logistics Agency (DLA), under the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, through the Assistant Secretary of Defense for Logistics and Materiel Readiness (ASD(L&MR)):

(1) Administers the worldwide Defense Materiel Disposition Program for the reutilization, transfer, screening, issue, and sale of FEPP, excess, and surplus personal property.

(2) Implements guidance issued by the ASD(L&MR) or other organizational elements of the OSD and establishes system concepts and requirements, resource management, program guidance, budgeting and funding, training and career development, management review and analysis, internal control measures, and crime prevention for the Defense Materiel Disposition Program.

(3) Annually provides to ASD(L&MR) a summary of sales proceeds from recycling transactions in accordance with 10 U.S.C. 2577.

(4) Ensures prompt processing of monthly sales proceeds under the QRP to DoD Components for reconciliation of sales proceeds and transactions.

(c) The DoD Component Heads:

(1) Implement the procedures prescribed in this subpart and ensure that supplemental guidance and procedures are in accordance with 41 CFR chapters 101 and 102.

(2) Reutilize, transfer, screen, issue and sell FEPP, excess and surplus personal property according to the procedures in § 273.15(a) and (c).

(3) Treat the disposal of DoD property as an integral part of DoD Supply Chain Management; ensure that disposal actions and costs are a part of ''end-to-end'' management of items and that disposal of property is a planned event at all levels of their organizations.

(4) Furnish the Director, DLA, with mutually agreed-upon data necessary to administer the Defense Materiel Disposition Program.

(5) Provide administrative and logistics support, including appropriate facilities, for the operations of tenant and related off-site DLA Disposition Services field activities under inter-Service support agreements (ISSAs).

(6) Dispose HP specifically designated as requiring Military Department processing.

(7) Request DLA Disposition Services provide sales services, as needed, for recyclable marketable materials generated as a result of resource recovery programs.

(8) Monitor, with DLA Disposition Services Site personnel, all property sent to landfills to ensure no economically salable property is discarded.

(9) Report, accurately identify on approved turn in documents, and turn in all authorized scrap generations to servicing DLA Disposition Services Sites.

(10) Authorize installation commanders, as appropriate, to sell directly recyclable and other QRP materials, or to consign them to the DLA Disposition Services for sale.

§ 273.15 Procedures.

(a) *Sale of surplus and FEPP, scrap generated from QRPS, and non-QRP scrap*—(1) *Authority and scope*—(i) *FPMR and FMR.* The provisions of this section are pursuant to 41 CFR chapters 101 and 102, also known as the FPMR and FMR, respectively.

(ii) *Additional guidance.* (A) Policy and procedures for the control of MLIs and Commerce Control List (CCL) items are contained in DoD Instruction 4160.28, DoD 4160.28–M Volumes 1–3, DoD Instruction 4140.62, ''Materiel Potentially Presenting an Explosive Hazard'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/414062p.pdf*), the International Traffic in Arms Regulations (ITAR) in 22 CFR parts 120 through 130, and the EAR in 15 CFR parts 730 through 774, and incorporated in the provisions of DoD Instruction 2030.08.

(B) 31 U.S.C. 3711–3720E provides an additional statutory requirement applicable to the sale of personal property.

(C) 48 CFR part 33 provide additional guidance on handling disputes from the sale of personal property.

(D) 48 CFR subpart 9.4 of the Federal Acquisition Regulation (FAR), current edition, provides direction on the debarment or suspension of individuals or entities.

(E) Sales of FEPP, although briefly addressed in the FMR, are managed by the agency head and must be in compliance with foreign policy of the United States and the terms and conditions of any applicable host-nation agreement. For additional information on processing FEPP, see Enclosure 4 to DoD Manual 4160.21, Volume 2.

(F) DoD Directive 3230.3, ''DoD Support for Commercial Space Launch Activities'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/323003p.pdf*) allows the sale of dedicated expendable launch vehicle (ELV) equipment directly to commercial ELV vendors in consultation with the Secretary of Transportation.

(2) *Exclusions.* This subpart does not govern the sale of property that is regulated by the laws or agencies identified in paragraphs (a)(2)(i) through (iv) of this section. The information in paragraphs (a)(2)(i) through (iv) is included for the DoD Components to reference when commodities in their possession become excess and disposal requires compliance with this part.

(i) The Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 *et seq.*) provides for the acquisition, disposal (sale) and retention of stocks of certain strategic and critical materials and encourages the conservation and development of sources of such materials within the United States. These materials when acquired and stored constitute and are collectively known as the National Defense Stockpile (NDS) or the ''stockpile.''

(ii) The Department of Transportation Maritime Administration has jurisdiction over the disposal of vessels of 1,500 gross tons or more that the Secretary of Transportation determines to be merchant vessels or capable of conversion to merchant use, excluding specified combatant vessels.

(iii) Under the provisions of 10 U.S.C. 2576, the Secretary of Defense may sell designated items (such as pistols, revolvers, shotguns, rifles of a caliber not exceeding .30, ammunition for such firearms, and other appropriate equipment) to State and local law enforcement, firefighting, homeland security, and emergency management agencies, at fair market value if the designated items:

(A) Have been determined to be surplus property.

(B) Are certified as being necessary and suitable for the operation and exclusive use of such agency by the Governor (or such State official as he or she may designate) of the State in which such agency is located.

(C) Do not include used gas masks and any protective body armor.

(iv) DLA Disposition Services provides a sales service to the DoD pursuant to the exchange or sale according to the procedures in DoD Manual 4140.01 that implement the authority in 41 CFR part 102–39; however, general and specific provisions through this method of sale are not addressed in this subpart. More information may be obtained from the DLA Disposition Services Exchange Sale Web site at *http://www.dispositionservices.dla.mil/sales/typesale.shtml.*

(3) *Sales of surplus property, FEPP, scrap generated by QRPs, and other scrap.* (i) DLA Disposition Services is the primary agency for managing surplus and FEPP sales, to include sales of scrap released by Military Department QRPs and non-QRP scrap.

(ii) DoD Components are responsible for disposing of surplus property, FEPP, scrap released by QRPs, and other scrap through sales to the general public and State and local governments through execution of an awarded contract.

(iii) The Military Departments are authorized to sell eligible scrap released by their respective QRPs and non-excess property eligible for exchange or sale without the involvement of DLA Disposition Services in accordance with their internal operating guidance, DoD Manual 4140.01, and 41 CFR chapters 101 and 102.

(iv) DoD Components advertise excess and surplus personal property for sale only after all prescribed screening actions are taken, unless screening is not required. See DoD Manual 4160.21 Volume 4 for exempt items.

(v) Sales actions include planning, merchandising, pre-award reviews, bid evaluation and award, contract administration, proceeds receipt and disbursement, and releasing the property.

(vi) Information on surplus and FEPP sales can be obtained from the DLA Customer Contact Center, accessible 24 hours a day, 7 days a week on the DLA Disposition Services Government Sales Web site at *https://www.dispositionservices.dla.mil/sales/index.shtml.*

(vii) Within the CONUS, DLA Disposition Services has partnered with a commercial firm to sell usable, non-hazardous surplus demilitarization (DEMIL) Code A and safe to sell Q property that is not reutilized, transferred, or donated. The commercial venture partner schedules and holds sales of property released to it by DLA Disposition Services. DLA Disposition Services has partnered with a commercial firm to sell scrap property. The scrap venture partner schedules and holds sales of scrap property released to it by DLA Disposition Services.

(viii) DLA Disposition Services conducts the balance of surplus and FEPP sales. This includes hazardous and chemical sales and DEMIL- and mutilation-required property and scrap sales in controlled property groups.

(A) DoD Components implement controls to mitigate security risks associated with the release or disposition of DEMIL Code B MLI and DEMIL Code Q CCL items that are sensitive for reasons of national security. Certain categories of DEMIL Q items that pose no risk to national security will be available for reutilization, transfer, or donation (RTD) and sales following normal procedures. However, only FEPP with DEMIL Code A (no export license requirements except to restricted parties) may be sold in foreign countries that are not restricted parties, in accordance with 15 CFR parts 730 through 774. DEMIL B and DEMIL Q items, including those posing no risk to national security are not permitted for sale.

(*1*) DEMIL B and sensitive DEMIL Q property can only be reutilized by authorized DoD Components, and approved Special Programs (FMS, law enforcement agencies (LEAs) and fire fighters).

(*2*) After DLA Disposition Services conducts initial screening, serviceable DEMIL B and sensitive DEMIL Q property will be transferred to a long term storage (LTS) facility and will remain available for reutilization

screening by DoD and approved Special Programs customers.

(*3*) LTS property can be screened electronically on the DLA Disposition Services Web site at *https://www.DispositionServices.dla.mil/asset/govegeo1.html.* No physical screening is permitted at the LTS facility.

(B) DoD Components may offer for sale any property designated as unsafe for use as originally intended, with mutilation as a condition of sale. DoD Components incorporate the method and degree of mutilation into the sales offering, as required by an official notification of the safety defects. The sales offering must include a condition of sale stipulating that title of the property cannot pass from the Government to the purchaser until DoD representatives have certified and verified the mutilation has been satisfactorily accomplished and have documented this certification.

(C) SCC Q materiel with Management Code S (as defined in DLM 4000.25–1 is hazardous to public health, safety, or national security. If sold, it must require mutilation as a condition of sale. Property assigned SCC Q with Management Code O may be offered for sale without mutilation as a condition of sale, but the seller must ensure that all sales include a restrictive resale provision. In addition, any sales offerings must indicate that the restrictive resale provision is to be perpetuated to all future sales to deter reentry of the materiel to the DoD supply system.

(D) Hazardous property may be offered for sale with appropriate terms and conditions. Prior to award, DoD Components conduct a pre-award review to determine whether the prospective purchaser meets the responsibility criteria in 41 CFR chapter 102. The prospective purchaser must display the ability to comply with applicable laws and regulations before the DoD Components can make an award.

(E) Only FEPP with DEMIL Code A (no export control requirements except to restricted parties) may be offered for sale in foreign countries that are not restricted parties in accordance with 15 CFR parts 730 through 774 and with additional DoD guidance in DoD 4160.28–M Volumes 1–3. The sales offering must include terms and conditions relating to taxes and duties, import stipulations, and compliance with international and local laws and regulations. See Enclosure 4 to DoD Manual 4160.21, Volume 2 for additional information.

(F) Other types of sales offerings for property requiring special handling must include applicable terms and conditions.

(ix) All persons or organizations are entitled to purchase property offered by DLA Disposition Services except for:

(A) Anyone under contract to conduct a specific sale, their agents or employees, and immediate members of their households.

(B) DoD military and civilian personnel and military and civilian personnel of the United States Coast Guard (USCG) whose duties include any functional or supervisory responsibilities for or within the Defense Materiel Disposition Program, their agents, employees, and immediate members of their households.

(C) Any persons or organizations intending to ship FEPP, excess and surplus personal property to restrictedparties. See *http://pmddtc.state.gov/embargoed_csuountries/index.html* or *https://demil.osd.mil/* or *http://treas.gov/offices/enforcement/ofac/programs* for additional information on shipments to restricted parties.

(D) Persons under 18 years of age.

(E) Individuals or firms who are ineligible to be awarded government contracts due to suspension or debarment. See the GSA Excluded Parties List at *http://epls.gov* or *https://demil.osd.mil/* or *http://treas.gov/offices/enforcement/ofac/sdn/* or *http://bis.doc.gov/complianceandenforcement/liststocheck.htm.*

(F) Persons or entities who wish to purchase MLI or CCL items who do not meet the requirements to receive an end user certificate (EUC) as specified in 22 U.S.C. 2778 *et seq.,* also known as the Arms Export Control Act, and the implementing regulations 22 CFR parts 120 through 130, also known as the International Traffic In Arms Regulations and 15 CFR parts 730 through 774, also known as the Export Administration Regulations. Information on demilitarized materiel is provided at *https://demil.osd.mil/.* A consolidated list of prohibited entities or destinations may be found at *http://export.gov/ecr/eg_main_023148.asp.*

(x) Disposable assets (FEPP, scrap, NAF property, disposable (MAP property, etc.) may not be sold directly or indirectly to restricted parties or any other areas designated by DoD 4160.28–M Volumes 1–3.

(xi) DoD Components will update the DoD IUID Registry when an item of personal property with a UII is declared FEPP, excess and surplus personal property and is subject to reutilization, transfer, or sale. The procedures required to update the DoD IUID Registry are in § 273.9.

(4) *Responsibilities in selling personal property*—(i) *Selling agencies.* Selling agencies:

(A) Determine whether to sell as the holding agency or request another agency to sell on behalf of the holding agency.

(B) Ensure the sale complies with the provisions of 40 U.S.C. 549, and any other applicable laws.

(C) Issue internal guidance for utilizing methods of sale stipulated in subchapter B of 41 CFR chapter 102, and promote uniformity of sales procedures.

(D) Obtain appropriate authorization to conduct sales of certain property or under certain conditions (*e.g.,* approval by the agency head to use the negotiation method of sale).

(E) Ensure that all sales are made after publicly advertising for bids, except as provided for negotiated sales in 41 CFR 102–38.100 through 102–38.125.

(F) Document the required terms and conditions of each sale, including but not limited to those terms and conditions specified in 41 CFR 102–38.75.

(G) Sell personal property upon such terms and conditions as the head of the agency deems appropriate to promote fairness, openness, and timeliness. Standard Government forms (*e.g.,* the Standard Form (SF) 114 series, ''Sale of Government Property'') are no longer mandatory, but may be used to document terms and conditions of the sale.

(H) Assure that only representatives designated in writing by the selling agency as selling agent representatives (SARs) are appointed to approve the sale and bind the United States in a written contractual sales agreement. The DLA Disposition Services equivalent of SARs are SCOs. The selling agency determines the requirements for approval (*e.g.,* select the monetary thresholds for awarding sales contracts).

(I) Adequately train SARs in regulatory requirements and limitations of authority. Ensure SARs are cognizant in identifying and referring matters relating to fraud, bribery, or criminal collusion to the proper authorities in accordance with 41CFR 102–38.50 and 102–38.225.

(J) Obtain approvals as necessary prior to award of the property (*e.g.,* an approval by the Attorney General of the United States to award property with a fair market value of $3 million or more or if it involves a patent, process, technique, or invention) as specified in 41 CFR 102–38.325.

(K) Be accountable for the care, handling, and associated costs of the

personal property prior to its removal by the buyer.

(L) Reconcile property and financial records to reflect the final disposition.

(M) Make the property available to FCAs when a bona fide need exists and when no like items are located elsewhere prior to transfer of title to the property, to the maximum extent practicable.

(N) Subject small quantities of low dollar value property in poor condition to the A/D Economy Formula (see Enclosure 3 to DoD Manual 4160.21, Volume 2). If there is no reasonable prospect of disposing of the property by sale (including a scrap sale), dispose of the property with the A/D processes.

(O) Ensure that the DoD IUID Registry is updated for DoD personal property items marked with a UII in accordance with § 273.6.

(ii) *Sales conducted by DLA Disposition Services.* As the major selling agency for the Department of Defense and an approved GSA Personal Property Sales Center, DLA Disposition Services must, in compliance with requirements in paragraph (a)(4)(i) of this section:

(A) Carefully consider all factors and determine the best method of sale for personal property utilizing identification, segregation, merchandising, advertising, bid evaluation, and award principles to protect the integrity of the sales process.

(B) Utilize any publicly accessible electronic media for providing information regarding upcoming sales, invitations for bid (including sales terms and conditions), acceptance of bids, and bid results.

(C) Provide direction to the DLA Disposition Services site through its internal operating procedures and automated systems.

(D) Verify that personal property items marked with a UII and offered for sale have been updated in the DoD IUID Registry.

(iii) *Authorized methods of sale*—(A) *General.* Sale of personal property is authorized in 41 CFR part 102–38 by the methods of sale identified in paragraphs (a)(4)(iii)(A)(*1*) through (*4*) of this section. (See § 273.12 for definitions.)

(*1*) Sealed bid.

(*2*) Spot bid.

(*3*) Auction.

(*4*) Negotiated sale. Criteria for negotiated sales include:

(*i*) The estimated fair market value is not in excess of $15,000 and the sale is considered to be in the best interest of the USG. Large quantities of materiel were not divided nor disposed through multiple sales in order to avoid these requirements.

(*ii*) For FEPP, the estimated fair market value is less than $250,000; sale is managed by DLA Disposition Services and authorized by DLA Disposition Services Director or designee.

(*iii*) Disposal is to a State, territory, possession, political subdivision thereof, or tax-supported agency therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation.

(*iv*) Bid prices after advertising are not reasonable and re-advertising would serve no useful purpose.

(*v*) Public exigency does not permit delay, such as that caused by the time required to advertise a sale (*e.g.,* disposal of perishable food or other property that may spoil or deteriorate rapidly).

(*vi*) The sale promotes public health, safety, or national security.

(*vii*) The sale is in the public interest in a national emergency declared by the President or Congress. This authority may be used only with specific lots of property or for categories determined by the GSA Administrator for a designated period but not more than 3 months.

(*viii*) Selling the property competitively (sealed bid) would have an adverse impact on the national economy, provided that the estimated fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation (*e.g.,* sale of large quantities of an agricultural product that impacts domestic markets).

(*ix*) The sale is otherwise authorized by 41 CFR chapter 102 or other law.

(*5*) Negotiated fixed price.

(*i*) The head of the selling agency or designee must determine and document that this method of sale serves the best interest of the government.

(*ii*) This type of sale must include appropriate terms and conditions; must be publicized consistent with the nature and value of the property involved; and be awarded on a first-come, first-served basis.

(B) *Sales of surplus, foreign excess, and other categories of property.* Within the constraints of the FMR-authorized methods of sale in paragraphs (a)(4)(iii)(A)(*1*) through (*5*) of this section, the types of sales that may be conducted for surplus, foreign excess, and other categories of property sold in the DoD Defense Materiel Disposition Program are:

(*1*) One-time sales for disposal of property already generated. Actual deliveries may comprise several release transactions.

(*2*) Term sales for the disposal of property generated over a period of time and in quantities that can be reasonably estimated for a specific period of time or are offered with minimum and maximum quantity provisions.

(iv) *Negotiated sales reporting.* Negotiated sales reports are required by GSA within 60 calendar days after the close of each fiscal year. DoD Components include in the report a listing and description of all negotiated sales with an estimated fair market value in excess of $5,000. For each sale negotiated, the report must provide:

(A) A description of the property.

(B) The acquisition cost and date. If not known, an estimate of the acquisition cost, identified as such.

(C) The estimated fair market value, including the date of the estimate and name of the estimator.

(D) The name and address of purchaser.

(E) The date of sale.

(F) The gross and net sales proceeds.

(G) A justification for conducting the negotiated sale.

(v) *GSA or DoD-authorized retail method of sale.* Sales of small quantity, consumer-oriented property at negotiated, auction, or bid prices that are conducted on a first-come; first-served; and as-is, where-is basis are considered retail sales. Credit or debit cards are the only authorized payment methods. Property having a fair market value exceeding $15,000 is subject to the limitations applicable to negotiated sales of surplus personal property.

(A) Retail sales of surplus, FEPP, and abandoned privately owned property may be conducted whenever such a program can effectively and economically be used to supplement other methods of sale. Retail sales must be approved in writing at an agency level on a case-by-case basis, and the approval must specify the quantities and types of property and time period covered. These authorizations are limited to specific situations and types of property for which deviation can be fully justified. In addition:

(*1*) All items must undergo screening, as appropriate, before being offered for retail sale.

(*2*) Each item being sold must have a fair market value of less than $15,000.

(*3*) All property received as items, if offered for sale by retail, must be sold as items and not by weight or lot, with the exception of scrap authorized for retail sale.

(*4*) Prices established must reflect the estimated fair market value of the property and must be publicized to the extent consistent with the nature and value of the property.

(*5*) Retail sales are limited to the Federal Supply Classification Codes (FSCs), according to the DEMIL code

assigned and GSA approval, which are in 41 CFR chapter 102.

(*6*) Property must be DEMIL Code A and have a DEMIL Integrity Code 1, 7, or 9.

(*7*) The retail selling price of the property, based on the condition, may not be set below the price it would bring from a commercial vendor.

(B) Approval in accordance with 41 CFR chapters 101 and 102 is required to sell scrap by the retail sale method.

(C) Only trained cashiers are authorized to collect and deposit proceeds received from a retail sale. Retail sales are open to the public and all USG personnel except:

(*1*) DoD military and civilian personnel and contractors and military and civilian personnel and contractors of the USCG whose duties at the installation where the property is sold include any functional or supervisory responsibility for or within the DoD Materiel Disposition Program.

(*2*) An agent, employee, or immediate member of the household of personnel in paragraph (a)(4)(v)(C)(*1*) of this section.

(vi) *Market impact.* (A) DoD Components will give careful consideration to the adverse market impact that may result from the untimely sale of large quantities of certain surplus items. Where applicable, the selling agency or partner organizations consult with organizations associated with the commodity proposed for sale to obtain advice on the market impact.

(B) Property reporting and sale schedules are developed to ensure expeditious property disposal, maximum competition, maximum sale proceeds, good public relations, and uniform workload.

(C) The selling agency will provide advance notice of all proposed or scheduled competitive bid sales (except negotiated) of surplus usable property. This includes property:

(*1*) Located in the 50 United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Federated States of Micronesia, the Northern Mariana Islands, Palau, and the U.S. Virgin Islands.

(*2*) With a total acquisition cost of $250,000 or more per sale.

(*3*) With a minimum potential return of $5,000 per sale of scrap and recyclable material.

(5) *Advertising to promote free and open competition.* DoD Components will:

(i) Bring property offered for sale to the attention of the buying public by free publicity and paid advertising.

(ii) Make every effort to obtain maximum free publicity through sites such as a Government-wide point of entry, *https://www.fedbizopps.gov.*

(iii) Employ the amount of paid advertising commensurate with the type and value of property being sold.

(iv) Distribute sale offerings to prospective purchasers before the first day of the inspection period.

(6) *Pre-sale activities*—(i) *Preparation and distribution of sale offerings*—(A) Include in the offer to sell sale date and time, method of sale, description of the property being offered, selling agency, location of property, time and place for receipt of bids, acceptable forms of bid deposits and payments, and general and special terms and conditions of sale. DLA Disposition Services sale offerings are available on the DLA Disposition Services Web site (*www.dispositionservices.dla.mil*).

(B) Establish a sales offering file that contains information about the property offered for sale from initiation to bid opening (*e.g.,* sale catalog, withdrawals prior to bid opening, agreements with holding activities).

(C) Prepare sale offerings to provide prospective purchasers with general information and instructions.

(D) Include in each offering the specific conditions of sale, the contents of which are determined by the selling agency. The SF 114 series may be used to document the terms and conditions of a sale, but their use is not mandatory. Conditions of sale include, but are not limited to:

(*1*) Inspection results.

(*2*) Condition and location of property.

(*3*) Eligibility of bidders.

(*4*) Consideration of bids.

(*5*) Bid deposits and payments.

(*6*) Submission of bids.

(*7*) Bid price determination.

(*8*) Legal title of ownership.

(*9*) Delivery, loading, and removal of property.

(*10*) Default, returns, or refunds.

(*11*) Modifications, withdrawals, or late bids.

(*12*) Requirements to comply with applicable laws and regulations.

(*13*) Certificate of independent price determination.

(*14*) Covenant against contingent fees.

(*15*) Limitation of government liability.

(*16*) Award of contract.

(E) DEMIL-required MLI property may not be sold unless DEMIL has been accomplished or it is offered for sale with DEMIL as a condition of sale. Incorporate the method and degree of DEMIL into the sales offering.

(*1*) If DEMIL is a condition of sale, the sales offering must include a condition of sale stipulating that title of the property will not pass from the government to the purchaser until the property has been satisfactorily DEMIL and has been certified and verified in accordance with DoD 4160.28–M Volumes 1–3.

(*2*) The sales offering must also include a requirement for the bidder to provide an EUC to the selling agency specifying the intended use and disposition of the property. The sales offering will also include an agreement by the buyer that they will obtain appropriate export authorizations from the Departments of Commerce or State prior to any export of the item. DLA Disposition Services uses DLA Form 1822, ''End-Use Certificate.'' The EUC must be processed through designated approval channels prior to award of the property to the prospective customer.

(*3*) The EUC for scrap mutilation residue must be incorporated into the sales offering for all MLI and CCL items property, including mutilation residue that may still be classified as DEMIL Code B or Q.

(ii) *Inspections.* Each sales offering will include an electronic or physical inspection period of at least 7 calendar days before the bid opening.

(iii) *Bid deposits.* The selling agency may incorporate a requirement for bidders to provide or post a bid deposit or a bid deposit bond in lieu of cash or other acceptable forms of deposit to protect the government's interest.

(iv) *PM bid deposits.* PM offerings will include a 20 percent bid deposit. A deposit bond may be used in lieu of cash or other acceptable form of deposit when permitted by the sales offering. If awarded, the bid deposit will be applied to the total contract price. Unsuccessful bid deposits will be returned. Bid deposit bonds will be returned to the bidder when no longer needed to secure the property.

(v) *Payments.* (A) Selling agencies will implement a payment policy, pursuant to 41 CFR chapter 102 that protects the government against fraud.

(B) Acceptable forms of payment include but are not limited to:

(*1*) Guaranteed negotiable instruments made payable to or endorsed to the U.S. Treasury in any form (*e.g.,* cashier's check, certified check, traveler's check, bank draft, or postal or telegraphic money order).

(*2*) Canadian postal money orders designed for payment in the United States must state specifically that they are payable in U.S. dollars in the United States.

(*3*) Electronic funds transfer. Special instructions are available through the DLA Disposition Services Web site and

must be followed if this option is chosen.

(*4*) Credit or debit cards.

(*5*) Combinations of payment methods in paragraphs (a)(6)(v)(B)(*1*) through (*5*) of this section.

(*6*) Other acceptable forms of payment include:

(*i*) Uncertified personal or company check for amounts over $25.00 accompanied by an irrevocable commercial letter of credit issued by a U.S. bank, payable to the Treasurer of the United States or to the selling agency. The check may not exceed the amount of the letter of credit. Each letter of credit must be an original or clearly state on its face that reproductions of the original document may be considered as an original document, and clearly state that requests for payment will be honored at any time they are presented by the selling agency. Selling agents will reject letters of credit with an expiration date. In addition, the minimum criteria required for acceptance of letters of credit are to state clearly that it is a commercial letter of credit (it need not say it is irrevocable, but it cannot say it is revocable); be on bank stationery; state the maximum amount guaranteed; state the name and address of the company or individual submitting the bid; state the sales offering number and opening date; and be signed by the issuer (authorized signature of bank official).

(*ii*) Uncertified personal or company checks in the amount of $25.00 or less when submitted for ancillary charges (*e.g.,* debt payment, storage charge, liquidated damages, interest).

(*iii*) Any form of payment received from a NAF instrumentality or a State or local government.

(*7*) Acceptable country currencies and information on exchange rates used must be provided in the sales offering and be incorporated into the sales offering. Generally, the exchange rate for receipt of monies or payments in designated currencies is established on the date of the deposit, which is generally the date of receipt.

(*8*) FEPP buyers must pay in U.S. dollars or the equivalent in foreign currency that is readily convertible into U.S. dollars. Where U.S. dollars are not available, the acceptance of foreign currency is authorized subject to these conditions:

(*i*) Payments exceeding the equivalent of $5,000 U.S. in individual sale transactions (that is, for the total of all items offered in a single sale, not for individual items included in a sale) may be accepted only after obtaining prior approval from the Defense Finance and Accounting Service (DFAS). When required, DFAS will submit the requests through the chain of command to DoS and Department of Treasury for approval. In countries where a considerable amount of FEPP may be available for sale and it may be necessary to accept foreign currency, the selling agency will request from DFAS an annual authorization, on a calendar year basis, to accept foreign currency.

(*ii*) Payments of up to the equivalent of $5,000 U.S. for individual transactions, at the rate of exchange applicable to the USG, may be accepted without further consultation if assurance has been obtained through the local DoS representative that such currency may be used in payment of any or all USG expenditures in the country whose currency is accepted. This provision is applicable only when annual authorizations have not been received; it is not feasible to sell for U.S. dollars or to ship the property to a country (other than the United States, except where property is a type authorized for return) where it may be sold for U.S. dollars or a freely convertible foreign currency; the currency is not that of a country whose assets in the United States are blocked by Department of Treasury regulations; the currency is that of a country with which the United States maintains diplomatic relations; and foreign currency accepted need not be the currency of the country of sale if the currency offered is otherwise acceptable to DoS and Department of Treasury and can be accepted pursuant to U.S. and host government agreements governing the sale of FEPP. In this connection, the sales offerings will indicate the foreign currencies that will be accepted for a particular sale.

(vi) *Transfer of title.* Selling agencies must document the transfer of title of the property from the government to the purchaser:

(A) By providing to the purchaser a bill of sale.

(B) By notification within a contract clause stipulating when the transfer is affected. For instance:

(*1*) Upon removal from the exact location specified in the sales offering.

(*2*) Upon certification and signature by the government that all required demilitarization has been accomplished in accordance with DoD Instruction 4160.28.

(C) By providing certifications required from the buyer prior to a transfer of title. An SF 97, ''Certificate of Release of a Motor Vehicle,'' (available at *http://www.gsa.gov/forms*) is required for the sale of vehicles. Selling agencies must provide internal guidance on how the transfer will occur and what documentation is required.

(vii) *Defaults.* If a purchaser breaches a contract by failure to make payment within the time allowed or by failure to remove the property as required, or breaches other contractual provisions, the purchaser is in default. The selling agency representative will give the purchaser a written notice of default and a period of time to cure the default.

(A) If the purchaser fails to cure the default, the selling agency is entitled to collect or retain liquidated damages as specified in the sales offer or contract.

(B) If a bid deposit was required and the bidder secured the deposit with a deposit bond, the selling agency must issue the notice of default to the bidder and the surety company.

(viii) *Disputes.* All sales offers will include the disputes clause contained in 48 CFR 52.233–1 of the FAR.

(7) *Bidder eligibility criteria.* (i) As a rule, selling agencies may accept bids from any person, representative, or agent from any entity. To be considered eligible for award of a sales contract, the bidder must be of legal age and not be debarred, suspended, or indebted to the USG, or from a restricted party. Any exceptions must be authorized by the selling agency head, who has determined that there is a compelling reason to make the award. A list of parties excluded from federal procurement and non-procurement programs can be obtained on the GSA Excluded Parties List System Web site at *http://epls.gov* or the OSD DEMIL Web site at *https://demil.osd.mil/.*

(ii) Personal property may be sold to a federal employee whose agency does not prohibit the employees from purchasing such property. Unless allowed by a federal or agency regulation, employees having non-public information regarding property offered for sale may not participate in that sale. This applies to an immediate member of the employee's household.

(8) *Suspension and debarment of bidders.* (i) 41 CFR 102–38.170, 31 U.S.C. 6101 note, Executive Order 12549, ''Debarment and Suspension'' (February 18, 1986), and Executive Order 12689, ''Debarment and Suspension'' (August 16, 1989) provide the authority for the suspension or debarment of bidders or contractors purchasing personal property from the government. The selling agent must follow the procedures described in 48 CFR subpart 9.4 of the FAR to debar or suspend a person or entity from the purchase of personal property. The debarring official for DLA Disposition Services sales is the DLA Special Assistant for Contracting Integrity.

(ii) Appointed SARs and SCOs will:

(A) Prepare recommendations for suspension or debarment from the sale of Federal property and acquisition contracts.

(B) Forward them to their respective servicing legal offices.

(C) Prepare reports recommending suspension or debarment using the procedures described in 48 CFR subpart 209.4 of the Defense FAR Supplement, current edition, in all cases where purchasers are recommended for suspension or debarment.

(iii) In addition to applicable guidance in 48 CFR subpart 9.4 and 48 CFR 45.602–1, 52.233–1, and 14.407 of the FAR and 48 CFR subpart 209.4 of the Defense FAR Supplement, current edition, contractors who are suspended, debarred, or proposed for debarment are also excluded from conducting business with the government as agents or representatives of another contractor. Firms or individuals who submit bids on sale solicitations on behalf of suspended or debarred contractors, or who in any other manner conduct business with the government as agents or representatives of suspended or debarred contractors, may be treated as affiliates as described in 48 CFR 9.403 of the FAR, and may be suspended or debarred.

(iv) Parties who violate trade security control (TSC) policies may be recommended for debarment or suspension.

(9) *Indebted bidders and purchasers.* (i) No awards may be made to bidders indebted to the government. Selling agencies will coordinate with DFAS to determine if a bidder is indebted to DoD and maintain local listings containing bidder name, address, sales contract information, amount of indebtedness, and date indebted.

(ii) Circumstances where the SAR or SCO must initiate action include:

(A) At bid opening. Bidders can bid if they cure the debt prior to the opening.

(B) As the result of monies owed the contractor as a refund.

(C) As a result of monies received for bid deposit.

(D) As a result of failure to make payment for overages, ancillary charges, etc.

(E) As a result of affiliation with suspended bidder.

(iii) Checks received for debts will be deposited immediately and the bidder will not be notified until the check has cleared its bank. Cash or negotiable instruments will be deposited immediately.

(iv) SARs or SCOs will contact the bidder and advise that the monies have been deposited to offset the specific indebtedness.

(v) If a SAR or SCO suspects affiliation, the SAR or SCO will contact the bidder and advise that the monies have been deposited according to the procedures in 31 U.S.C. 3711–3720E for the collection of debts owed to the United States.

(10) *Bid evaluation*—(i) *Responsive bids and responsible bidders.* (A) Only responsive bids (as defined in the § 273.12) may be considered for award.

(B) Bidders do not have to use authorized bid forms. The bid may be considered when the bidder agrees to all of the terms and conditions and acknowledges that the offer may result in a binding contract award.

(C) The selling agency must determine that the bidder is a responsible person or represents a responsible entity.

(ii) *Late bids.* The selling agency will consider late bids for award if the bid was delivered in a timely fashion to the address specified in the sales offering but did not reach the official designated to accept the bid by the bid opening time due to a government delay.

(iii) *Bid modification or withdrawal.* (A) A bidder may modify or withdraw its bid prior to the start of the bid opening. After the start of the sale, the bidder will not be allowed to modify or withdraw its bid.

(B) The selling agency representative may consider late bid modifications to an otherwise successful bid at any time, but only when it makes the terms of the bid more favorable to the government.

(iv) *Mistakes in bids prior to award.* (A) The administrative procedures for handling mistakes in bids (prior to or after award) are contained in 41 CFR 102–38.260, which utilizes the processes of 48 CFR 14.407 of the FAR for federal property sales.

(B) The selling agency head or designee may delegate the authority to make administrative decisions regarding mistakes in bid to a central authority or alternate. This delegation may not be re-delegated by the authority or alternate.

(C) A signed copy of the administrative determination must be included in the contract file and provided to the Government Accountability Office, when requested.

(v) *Bid rejections.* In the event a bid is rejected, the next most advantageous bid may be considered. If an entire sales offering is rejected, all items within that sale may be reoffered on another sale.

(vi) *Identical bids.* If there are multiple high bids of the same amount, the SAR or SCO must consider other factors of the sale (*e.g.,* payment arrangements, estimated removal time) that would make one offer more advantageous to the government. Otherwise, the SAR or SCO may use random tie breakers to avoid expense of reselling or reoffering the property.

(vii) *Suspected collusion.* The SAR or SCO must refer any suspicion of collusion to the agency's Office of the Inspector General or the Department of Justice (DOJ) through its legal counsel.

(viii) *Protests.* Protests by bidders regarding validity of determinations made on the sale of personal property may be submitted to the DLA Disposition Services Comptroller General or comptroller general for the selling agent.

(11) *Awarding sales contracts*—(i) *Selling agents.* SARs or SCOs will:

(A) Be appointed by agency heads or their designees to act as selling agents for the USG.

(B) Enter into and administer contracts for the sale of government property pursuant to the provisions of 40 U.S.C. 101 *et seq.* and other applicable statutes and regulations.

(C) Award and distribute contracts to responsible bidders whose bids conform to the sales offering and are the most advantageous to the government.

(D) Be authorized to reject bids in accordance with paragraph (a)(10)(v) of this section.

(E) Sign under the title of ''Sales Agency Representative'' or ''Sales Contracting Officer.''

(F) Sign all contracting documentation on behalf of the USG.

(G) Be responsible for the proper distribution of sales proceeds.

(ii) *Approvals required for sales and awards.* (A) Selling agencies will designate the dollar limitations of authority of their appointed SARs or SCOs. DLA Disposition Services SCOs may make awards of contracts on sales of usable property having a fair market value of less than $100,000. Except for antitrust advice limitations, awards of scrap property do not require approval by higher authority.

(B) Selling agencies will notify the U.S. Attorney General whenever an award is proposed for personal property with an estimated fair market value of $3 million or more or if the sale involves a patent, process, technique, or invention per 41 CFR 102–38.325. Selling agencies will otherwise comply with all requirements of 41 CFR chapter 102 including but not limited to the prohibition to dispose any such item until confirmation from the U.S. Attorney General that the proposed transaction would not violate antitrust laws.

(C) The head of a selling agency or designee must approve all negotiated sales of personal property. Selling

agencies must submit explanatory statements for each sale by negotiation of any personal property with an estimated fair market value in excess of $15,000 through GSA to the House and Senate Oversight Committee to obtain approval for the sale in accordance with 40 U.S.C. 549.

(iii) *Processing mistakes in bid after award, claims, disputes, and appeals.* Keeping the interests of the government in the forefront, SARs or SCOs will process these actions expeditiously and fairly, in accordance with established internal and external regulations and laws. SARs or SCOs will respond to each issue pertaining to mistakes in bids, claims, disputes, or appeals until it is resolved and provide a written final decision to the claimant or adjudicating agency, as appropriate, until the issue is closed. Retain any decisions made or actions taken in regard to these issues as official records, as required by agency or higher authority directives.

(12) *Notification process for dissemination of awards information.* (i) The selling agency may only disclose bid results after the award of any item or lot of property has been made. No information other than names may be disclosed regarding the bidder(s).

(ii) Bids are disclosed as they are submitted on spot bids or auctions.

(13) *Contract administration.* Selling agencies will prescribe contract administration procedures for the various methods of sale, to include procedures for:

(i) Disseminating award information.

(ii) Billing.

(iii) Default and liquidation.

(iv) Establishing contract folders, including file maintenance and disposition.

(A) Contract administration files will consist of a sale folder, financial folder, individual contract folder(s), and an unsuccessful bids folder for each sale.

(B) Selling agencies will develop procedures for maintaining, completing, reviewing, and auditing these files. All pertinent documentation, including EUC, licenses, pre-award reviews, etc., must be included in the files.

(C) Documentation found in these files may be subject to 5 U.S.C. 552, also known as the Freedom of Information Act. All Privacy Act, privileged, exempt, classified, For Official Use Only, or sensitive information must be obliterated prior to release to the public.

(v) Collection and distribution of sales proceeds.

(vi) Ensuring all requirements of the contract (*e.g.,* non-payment, required licenses) are met prior to releasing the property.

(vii) Making modifications to contracts resulting from changes to the original contract.

(viii) Handling public requests for information.

(ix) Timely review and closure of each contract.

(x) Timely review and closure of each sale.

(14) *Cashier functions and SAR or SCO responsibilities.* (i) Cashiers must be duly trained in the handling and processing of monies collected as payment on sales.

(ii) Cashiers must credit sales proceeds in accordance with chapter 5 of Volume 11A of DoD 7000.14–R, ''Department of Defense Financial Management Regulations (FMRs)'' (available at *http://comptroller.defense.gov/fmr/current/11a/11a_05.pdf*).

(15) *Inquiries regarding suspended or debarred bidders.* Refer all inquiries regarding suspended or debarred bidders to the office effecting the action.

(16) *Release requirements following sales.* (i) Removal of property is subject to general and special conditions of sale and the loading table as set forth in the sale offering and resulting contract.

(ii) Prior to releasing sold property, assigned personnel will:

(A) Verify the sale items to be delivered or shipped to purchasers against the sale documents to prevent theft, fraud, or inappropriate release of property.

(B) When DLA Disposition Services is managing the sale and where an in-place receipt memorandum of understanding (MOU) has been executed, installation commanders will provide, by letter designation and upon request from DLA Disposition Services site, the names, telephone numbers, and titles of those non-DLA Disposition Services site personnel authorized to release property located at their activities. As changes occur, installation commanders will provide additions, deletions, and revisions in writing to DLA Disposition Services.

(C) Weigh property sold by weight at the time of delivery to the purchaser.

(D) Count or measure property sold by unit at the time of delivery.

(iii) Purchasers are required to pay, before delivery, the purchase price of item(s) to be removed, based upon the quantity or weight as set forth in the sale offering, except for term sales. If prepayment of an overage quantity is not practicable or possible, payment will be due upon issuance of a statement of account after release of property. Sales of property to State and local governments do not require payment prior to removal. The DLA Disposition Services contract with its sales partners does not require payment prior to delivery of property to State and local governments only.

(17) *Withdrawal from sale.* (i) Property that has been physically inspected, determined to be usable or needed, and thereby has survived screening is eligible for sale and may be requested to satisfy valid requirements within limitations specified in this paragraph. Generally, property past the screening cycle may not be withdrawn from sale. However, circumstances may require the withdrawal of property from sale to satisfy valid needs within the Department of Defense or FCAs. Donation recipients are not eligible to withdraw property from the sale unless they can provide DLA Disposition Services with documentation that an error was made by DLA Disposition Services and they should have been issued the property or the property was never available for electronic screening in GSA personal property database GSAXcess®.

(ii) In many instances, the property remains at a DLA Disposition Services site after the title has been transferred. This property is ineligible for withdrawal to satisfy DoD needs. If the DoD Component intends to pursue purchasing the property from the commercial partner, transactions must be handled between the partner and the DoD Component without intervention from the DLA Disposition Services.

(iii) Pursuant to 41 CFR chapter 102, due to the potential for adverse public relations, every effort will be made to keep withdrawals from sales to a minimum. These efforts will include searching for assets elsewhere in the disposal process. Exceptions to this policy will be implemented only when all efforts to otherwise satisfy a valid need have been exhausted and the withdrawal action is determined to be cost effective and in the best interest of the government. DoD Component heads will ensure that withdrawal authority is stringently controlled and applied.

(iv) Make requests to the selling agency by the most expeditious means. With the exception of ICP or IMM and NMCS orders, requests will provide full justification including a statement that the property is needed to satisfy a valid requirement.

(v) Withdrawals may not be processed subject to property inspection for acceptability. Inspect property before requesting withdrawal.

(vi) Orders submitted by ICPs or IMMs do not require justification statements before award.

(vii) With the exception of ICPs and IMMs, minimum written information

required in the package for withdrawal requests includes:

(A) Detailed justification as to why the property is required, including how the property will be used; such as applicability of materiel to active weapons systems.

(B) Mission impact statement from a support, procurement, and funding standpoint if property is not withdrawn from sale (*e.g.,* the effect on operational readiness requirements within a specified period of time).

(C) A summary of efforts made to find assets meeting the requirement from other sources, including consideration of substitute items.

(viii) When the DLA Office of Investigations, TSC Assessment Office, determines that property was incorrectly described, and that TSC or DEMIL requirements are applicable, property will either be withdrawn or a provision made to accomplish TSC or DEMIL, as appropriate. The TSC Assessment Office may request withdrawal of property and suspend further action regarding the property until the matter is resolved in accordance with the procedures in DoD Instruction 2030.08.

(ix) As property moves through the sales cycle, constraints are placed on requests for withdrawals from sale.

(A) The area manager can approve requests for withdrawal during the period between the end of screening and the date the property is referred to DLA Disposition Services for sale cataloging or until a delivery order is signed by the commercial venture partner. The area manager can also approve withdrawals prior to bid opening for items on authorized local sales.

(B) DLA Disposition Services can approve withdrawal requests from date of referral until the property is awarded. DLA Disposition Services can also return requests for withdrawal after award that do not include the required written information.

(x) DLA approval, with DLA legal concurrence, is required on any withdrawal request after the award but before removal.

(xi) When title has passed to the purchaser, the requestor must work directly with the purchaser. This includes commercial venture property. The SAR or SCO will provide contract information when requested.

(18) *Reporting requirement.* (i) In accordance with 10 U.S.C. 2583, the Secretary of Defense will prepare an annual report identifying each public sale conducted (including property offered for sale and property awarded) by a DoD Component of military items that are controlled on the U.S. Munitions List pursuant to 22 U.S.C. 121 and assigned a DEMIL Code of B in accordance with DoD 4160.28–M Volumes 1–3. For each sale, the report will specify:

(A) The date of the sale.

(B) The DoD Component conducting the sale.

(C) The manner in which the sale was conducted (method of sale).

(D) Description of the military items that were sold or offered for sale.

(E) The purchaser of each item, if awarded.

(F) The stated end-use of each item sold.

(ii) The report is submitted not later than March 31 of each year. The Secretary of Defense is required to submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate the report required by this section for the preceding fiscal year. DLA Disposition Services includes shipments made during the reporting period to its business partner.

(19) *Special program sales*—(i) *Resource recovery and recycling program.* (A) All DoD installations worldwide will have recycling programs as required by DoD Instruction 4715.4 with goals for recycling as outlined in Executive Order 13514.

(*1*) Pursuant to 10 U.S.C. 2577 and 48 CFR subpart 209.4 of the DFARS, each installation worldwide will have or be associated with a QRP or recycling program available to the installation to appropriately dispose of all recyclable materials for all activities. This includes all DoD facilities not on a military installation, tenant, leased, and government owned-contractor operated (GOCO) space.

(*2*) Installations having several recycling programs will incorporate them into the single installation QRP if possible, however a separate recycling program may be established to appropriately dispose of recyclable materials that cannot be recycled through the QRP.

(*3*) Each DoD Component will designate a coordinator for each QRP and ensure the GOCO facilities participate in QRP.

(B) Recyclable material includes material diverted from the solid waste stream and the beneficial use of such material. It may be beneficial to use waste material as a substitute for a virgin material in a manufacturing process, as a fuel, or as a secondary material. Examples of material that can be recycled through QRP are provided in Table 1 of this section and those that cannot be recycled through QRP are provided in Table 2 of this section, both from the complete list in DoD Instruction 4715.4.

(C) Continually review each QRP to identify material appropriate for waste stream diversion, explore recycling methods, and identify potential markets. Additional recyclable material includes not only material generating profit, but material whose diversion from the waste stream generate a savings to the Department of Defense in disposal costs, or when diversion is required by State or local law or regulation. Material generated from nonappropriated or personal funds (*e.g.,* post consumer wastes from installation housing, and installation concessions) may be included.

TABLE 1—EXAMPLES OF MATERIAL THAT CAN BE RECYCLED THROUGH QRP

EXAMPLES OF MATERIAL THAT CAN BE RECYCLED THROUGH QRP	
1	Typical recyclable material found in the municipal solid waste stream (glass, plastic, aluminum, newspaper, cardboard, etc.).
2	Scrap metal from non-defense working capital fund activities.
3	Expended small arms cartridge cases that are 50-caliber (12.7 mm) and smaller not suitable for reloading that have been mutilated or otherwise rendered unusable and gleanings made unusable for military firing e.g., crushed, shredded, annealed, or otherwise rendered unusable as originally intended prior to recycling in accordance with DoD Instruction 4715.4, except overseas.
4	Storage and beverage containers (metal, glass, and plastic).
5	Office paper (high-quality, bond, computer, mixed, telephone books, and **Federal Registers**).
6	Commissary store cardboard and exchange store wastes (cardboard), if the commissary or exchange chooses to use the QRP.
7	Scrap wood and unusable pallets.
8	Rags and textile wastes that have not been contaminated with hazardous material or HW.
9	Automotive and light truck-type tires.
10	Used motor oil.

TABLE 1—EXAMPLES OF MATERIAL THAT CAN BE RECYCLED THROUGH QRP—Continued

11	Food wastes from dining facilities.
12	Office-type furniture that is broken or too costly to repair.
13	Donated privately owned personal property.

TABLE 2—EXAMPLES OF MATERIAL THAT CANNOT BE RECYCLED THROUGH QRP

	EXAMPLES OF MATERIAL THAT CANNOT BE RECYCLED THROUGH QRP
1	PM-bearing scrap.
2	Scrap metal generated from a defense working capital fund activity.
3	Items, such as MLI indicated in item 10 of this table, that must be demilitarized (DEMIL) at any time during their life cycle, except for small arms and light weapons brass and gleanings as described in item 3 of Table 1.
4	Hazardous materials and waste.
5	Material that can be reused by the government for their original purpose without special processing. These items may or may not be MLI or CCL items.
6	Repairable items (e.g., used vehicles, vehicle or machine parts).
7	Unopened containers of oil, paints, or solvents.
8	Fuels (uncontaminated and contaminated).
9	MLI or CCL items (Only DEMIL Code A items may be candidates for recycling.).
10	Printed circuit boards containing hazardous materials.
11	Items required to be mutilated prior to sale or release to the public.
12	Ammunition cans, unless certified as MPPEH Designated as Safe in accordance with DoD 4160.28–M Volumes 1–3 and DoDI 4140.62.
13	Usable pallets, unless DLA Disposition Services states otherwise.
14	Electrical and electronic components (These may be MLI or CCL items eligible only for Electronics Demanufacturing and DEMIL or mutilation.).

(D) Installation commanders authorized by their DoD Component head, as appropriate, may sell directly recyclable and other QRP materials, or consign them to the DLA Disposition Services for sale. If selling directly, installations will:

(*1*) Maintain operational records for annual reporting requirements, review, and program evaluation purposes.

(*2*) Manage processes, reports, and proceeds distribution in accordance with 41 CFR chapters 101 and 102 and DoD 7000.14–R.

(E) Excluded material is identified in Attachment 2 to DoD Instruction 4715.4, which provides a guide of eligible and ineligible materials.

(F) Although scrap recyclable materials do not require formal screening, those purchased with appropriated funds, as surplus property under the FPMR and FMR, are available to meet RTD requirements.

(G) When sold directly by the installation, use proceeds to reimburse the installation level costs incurred in operating the recycling program. After reimbursement of the costs incurred by the installation for operations (*e.g.,* operation and maintenance and overhead), installation commanders may use the remaining proceeds as authorized by DoD Instruction 4715.4.

(ii) *Commercial Space Launch Act (CSLA).* (A) The purpose of the CSLA, 51 U.S.C. Chapter 509, is to promote economic growth and entrepreneurial activity through the utilization of the space environment for peaceful purposes; encourage the private sector to provide launch vehicles and associated launch services; and to facilitate and encourage the acquisition (sale, lease, transaction in lieu of sale, or otherwise) by the private sector of launch property of the United States that is excess or otherwise not needed for public use, in consultation with Secretary of Transportation. Donation screening is not required prior to sale.

(B) The DoD Chief Information Officer (DoD CIO) has the primary responsibility for coordinating DoD issues or views with the Department of Treasury, other Executive department organizations, and the Congress on matters arising from private sector commercial space activities, particularly the operations of commercial ELVs and national security interests.

(C) The DLA Disposition Services is the primary office to conduct CSLA sales following the direction for pricing and disposition as specified in DoD Directive 3230.3 Sales will be by competitive bid to U.S. firms or persons having demonstrated action toward becoming a commercial launch provider. The DoD CIO and the Secretary of the U.S. Air Force (USAF) designated representative will support DLA Disposition Services, as necessary, in the sale or transfer of excess and surplus personal property to the private sector, including the identification of potential bidders and any special sales terms and conditions. The generating activity will assist, as necessary, in completing sales transactions.

(b) *Security assistance or FMS*—(1) *Statutory authority.* Authority for security assistance is provided primarily under 22 U.S.C. 2751 *et seq.* (also known as the Arms Export Control Act) and annual appropriation acts for foreign operations, export financing, and related programs.

(2) *Security assistance program requirements.* (i) Security assistance transfers are authorized under the premise that if these transfers are essential to the security and economic well-being of friendly governments and international organizations, they are equally vital to the security and economic well-being of the United States. Security assistance programs support U.S. national security and foreign policy objectives.

(ii) In coordination and cooperation with DOS, the Defense Security Cooperation Agency (DSCA) directs, administers, and provides overall procedural guidance for the execution of security cooperation and additional DoD programs in support of U.S. national security and foreign policy objectives; and promotes stable security relationships with friends and allies through military assistance, in accordance with DoD 5105.38–M.

(3) *Foreign purchased property.* Disposal initiatives and actions will be in accordance with DoD 5105.38–M or guidance provided by security assistance implementing agencies on a case-by-case basis.

(4) *FMS disposal process summary*—(i) *Defense disposal services.* (A) FEPP,

excess, and surplus personal property may be made available to foreign countries and international organizations designated as eligible to purchase property or services in accordance with 22 U.S.C. 2151, 2321b, 2321j, 2443, 2751, and 2778 *et seq.* Such defense articles may be made available for sale under the FMS Program. Transactions under this authority are reimbursable.

(B) FMS transactions are completed by use of letters of offer and acceptance and the procedures specified in DoD 5105.38–M.

(ii) *Grant transfer of excess defense articles (EDAs).* 22 U.S.C. 2321j authorizes the U.S. Government to grant transfer of EDA to eligible foreign governments. For a transfer under this authority, DoD funds may not be used for packing, crating, handling, and transportation except under certain circumstances consistent with the guidance in 22 U.S.C. 2321j(e).

(iii) *FMS transportation.* (A) As a general rule, FMS customers are responsible for all transportation costs.

(*1*) The transportation costs can be written into the letters of agreement or the items can be shipped on a collect commercial basis. The implementing DoD Component or DLA Disposition Services will identify exceptions to this rule.

(*2*) Sensitive and some other FMS shipments may be made via the Defense Transportation System (DTS).

(*i*) Sensitive shipments not going through the DTS must be routed through a DoD-controlled port (Delivery Term Codes 8, B, or C). See Appendix E, paragraph H.1, Part II of the Defense Transportation Regulations 4500.9–R, ''Defense Transportation Regulations'', current edition (available at *http://www.transcom.mil/dtr/part-ii/dtr_part_ii_app_e.pdf*).

(*ii*) For these shipments, the implementing agency will provide separate instructions and funds citations. Transportation arrangements may be made by the supporting Transportation Office or DLA Disposition Services.

(B) Unless otherwise directed by the implementing agency or DLA Disposition Services FMS Office:

(*1*) Send small items collect via Federal Express or other parcel service to designated freight forwarder.

(*2*) Send less than truckload shipments collect via common carrier to designated freight forwarder.

(*3*) Prepare and send DD Form 1348–5, ''Notice of Availability/Shipment,'' for larger than truckload shipments to freight forwarder or other designated address. Upon receipt of DD Form 1348–5, the recipient will provide shipping instructions or advise of pick-up date. If shipping instructions are not received within 15 days after DD Form 1348–5 is issued, follow up with freight forwarder and notify DLA Disposition Services if they are the implementing agency.

(*4*) For sensitive Delivery Term Code 8 property, in accordance with Part II of the Defense Transportation Regulation 4500.9–R, and hazardous material property, the supporting transportation office must ensure that the property is released in accordance with all applicable regulatory requirements. The preferred option is to let the supporting transportation office accomplish notice of availability and property shipment processes.

(*5*) On rare occasions, property may be transferred on a no-fee basis. The implementing agency or DLA Disposition Services will provide appropriate instructions on a case-by-case basis.

(C) In accordance with 22 U.S.C. 2403, construction equipment, including but not limited to tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors are not considered EDA for purposes of this section.

(iv) *FMS eligibility.* Eligibility for FMS is listed in Table C4.T2 of DoD 5105.38–M. Eligibility to receive excess property as a grant pursuant to 22 U.S.C. 2151, 2321, 2751, 2778 *et seq.* is established by the DOS and provided to DSCA. DoD Components will follow the latest guidance from DSCA showing which countries are eligible under the various authorities.

(v) *Controlled assets.* (A) Foreign countries and international organizations may screen and request DLA Disposition Services assets during DLA Disposition Services reutilization screening periods.

(B) 10 U.S.C. 2562 prohibits the sale or transfer of fire equipment to foreign countries and international organizations until RTD has been accomplished. Fire equipment remaining after these periods may be made available to security assistance customers with a certification to DSCA that the property is not defective and has completed all required excess property processes.

(C) DSCA will provide guidance for the transfer of items.

(D) Pricing of FMS is governed by DoD 7000.14–R.

(c) *Reutilization or transfer, excess screening, and issue (includes donation of DLA Disposition Services assets)*—(1) *Authority and scope.* (i) The provisions of this section are based on the guidelines of 41 CFR chapters 101 and 102.

(ii) The scope of this section includes the RTD screening, ordering, issuing, and shipment of DoD FEPP, excess, and surplus personal property.

(A) These procedures apply to the Military Departments, FCAs, donees, eligible foreign governments and international agencies, and any other activities authorized to screen and order FEPP, excess, and surplus personal property.

(B) See § 273.8 for additional guidance on the DoD HAP, LEAs, DoD or Service museums, National Guard units, Senior Reserve Officer Training Corps (ROTC) units, morale, welfare, recreational activities (MWRAs), the MARS, Civil Air Patrol (CAP), and DoD contractors.

(C) See § 273.8 and paragraph (b) of this section for additional information on foreign governments and international organizations.

(2) *General.* (i) DoD policy, in accordance with 41 CFR chapters 101 and 102, is to reutilize DoD excess property and FEPP to the maximum extent feasible to fill existing needs before initiating new procurement or repair. All DoD activities will shop for available excess assets and review referrals for assets to satisfy valid needs. DLA Disposition Services provide asset referrals via front end screening to ICPs daily. See individual Military Department guidance regarding eligibility and authority to withdraw excess property from DLA Disposition Services.

(ii) Customers can electronically request specific NSNs for orders, whether DLA Disposition Services assets are available at the time the need arises. When an asset becomes available in the DLA Disposition Services inventory, an electronic notification will be sent to the customer for initiating an official order. See paragraph (c)(3)(vii) of this section for procedures on the automated want lists.

(iii) The UII mark, if applicable, will not be removed from a personal property item offered for RTD.

(3) *Screening for personal property*—(i) *Screening.* (A) DoD reutilization is accomplished electronically via MILSTRIP and DLA Transaction Services, through the DLA Disposition Services Web site.

(B) At the end of the DoD exclusive internal screening cycle, DoD excess property (excluding FEPP, scrap and HW) is transmitted to the GSAXcess®, and GSA assumes control of federal agency transfer and donation screening. The property remains in DLA

Disposition Services accounts and can be viewed on their Web site.

(C) GSA federal screening is accomplished through the GSAXcess® platform that is a customer interface to the Federal Disposal System (FEDS). DoD personnel may shop in GSAXcess® at any time and search and select property from DoD and other FCAs. Transportation costs for other FCA property are borne by the DoD screener. DLA Disposition Services makes shipping arrangements for DoD orders in GSAXcess® and includes the transportation costs in the cost of the item.

(D) Enclosure 7 to DoD Manual 4160.21, Volume 2 and Enclosure 3 to DoD Manual 4160.21, Volume 4 provides additional information on screening for excess personal property by category.

(E) All references to days are calendar days unless otherwise specified.

(F) With electronic screening, physical tagging of property at a DLA Disposition Services site to place a ''hold'' until an order has been submitted is no longer authorized.

(G) DLA Disposition Services provides reasonable access to authorized personnel for inspection and removal of excess personal property.

(ii) *CONUS screening timeline for excess personal property*—(A) *Accumulation period.* DLA Disposition Services accumulates property throughout the week as it is inspected and added to the inventory system. As property is added to the inventory system, it is visible for ordering by DoD customers only. This accumulation period ends each Friday, prior to the start of the official 42 day screening timeline.

(B) *DoD and Special Programs screening Cycle (14 days).* DoD and the Special Programs identified in § 273.8 have exclusive ordering authority during the first 14 days of the screening timeline. DoD reutilization requirements have priority during this cycle, and property will not be issued to Special Programs until the end of this cycle.

(C) *FCA and donees screening cycle (21 days).* FCAs and GSA-authorized donees screen property in GSAXcess® during the following 21 days. FCA requirements have priority during this cycle, and property will not be issued to donees until the end of this cycle. During this cycle, DoD will search and select property in GSAXcess® rather than submit MILSTRIP orders, with the exception of priority designator (PD) 01–03 and NMCS requisitions. DoD customers will submit PD 01–03 and NMCS requisitions to DLA Disposition Services, who will immediately fill these orders and notify GSA to make the record adjustment in GSAXcess®.

(D) *GSA allocation to donees (5 days).* The following 5 days are set aside for GSA to allocate assets to fill donee requests. During this allocation period, no GSAXcess® ordering can be made.

(E) *Final reutilization/transfer/donation (RTD2) screening (2 days).* The final 2 days of screening are available to all RTD customers for any remaining property on a first come, first served basis.

(F) Table 3 of this section summarizes the priority of issue and the timelines associated with screening and issue of property.

TABLE 3—SUMMARY OF SCREENING AND ISSUE TIMELINES IN ORDER OF ISSUE PRIORITY

RTD Method	Eligibility	Screening period	Issuing period
Reutilization	DoD	Days 1–14	Days 1–42.
Reutilization	Special Programs	Days 1–14	Days 15–42.
Transfer	All Federal Agencies	Days 15–35	Days 15–42.
Donation	Authorized GSA Donees	Days 15–35	Days 36–42.
RTD2	All RTD Customers	Days 41–42	Days 41–42.
Sale	General Public	N/A	N/A.

(iii) *FEPP screening timeline.* (A) Screening timeline and procedures for FEPP will generally follow those listed in paragraph (c)(3)(ii) of this section.

(B) During contingency operations, the ASD (L&MR) may approve expedited screening timelines and changes to issue priorities.

(iv) *DoD screening methods.* (A) DoD reutilization screening is accomplished electronically via MILSTRIP and DLA Transaction Services through the DLA Disposition Services Web site. If the electronic method is unsuccessful, please fax the following on agency letterhead: Name, phone number, point of contact, internet provider (IP) address, and two signatures of authorized individuals to DLA Disposition Services Reutilization Office at fax commercial 269–961–7348 or DSN 661–7348.

(B) Local screening at the DLA Disposition Services sites is on-site (visual) viewing of excess property. Physical inspection of property may not be possible for assets at depot recycling control points (RCPs), receipts in-place, or remote locations.

(v) *GSAXcess® screening.* (A) Users must obtain an access code from GSA to screen through GSAXcess®. To learn about GSAXcess® and obtain access code information, see: *http://apps.fss.gsa.gov/Manuals/Feds_Users_guide.*

(B) DoD customers must obtain access from GSAXcess® to search and select property. The DoD Accountable (Supply) Property Officer must provide GSA a letter (on official letterhead) or email (from a ''.mil'' address) requesting access for their representatives and include addresses, phone numbers, email addresses, and DoDAAC of those authorized to select property from GSAXcess®. Customers may select items once the access is granted.

(C) DoD customers who only want to search for available property in GSAXcess® can also register for search only access at *www.gsaxcess.gov.*

(vi) *Screening exceptions.* Generally, property cannot be screened before it is entered on DLA Disposition Services site's accountable records. However, instances where screening prior to entry may be justified include:

(A) Property needed to fulfill emergency orders, (*e.g.,* PD 01–03, NMCS, disaster relief) and which may be processed as a ''wash-post'' transaction. The DLA Disposition Services site must be able to fully justify these actions and ensure a signed receipt copy of the DTID is returned to the generating activity.

(B) Backlog situations where usable property is in danger of being damaged by the elements due to a lack of adequate storage and an authorized customer is on location.

(vii) *Automated want lists.* (A) Customers may use the automated pre-receipt information to flag desired NSNs. Use of this tool does not guarantee the items will become available. If notified that the item is in the excess inventory, customers must use standard MILSTRIP order procedures. For more guidance, see

https://www.dispositionservices.dla.mil/rtd03/index.shtml.

(B) Customers may submit automated searches for recurring NSNs through the DoD Property Search Web site at *https://www.dispositionservices.dla.mil/rtd03/index.shtml.* Results are emailed to the customer.

(C) Customers may also submit a ''Want List'' in GSAXcess®, which can help them locate excess property from civilian agencies.

(viii) *Specialized screening for ICPs.* (A) DLA Disposition Services will electronically report to designated ICPs those assets with valid NSNs meeting dollar value and condition code criteria established by each DoD Component. The notification will be sent electronically to the recorded DoD wholesale manager (ICP or IMM) concurrently with recording the excess in the DLA Disposition Services system for accounting for excess property in DoD. Component IMMs may view the NSNs they requested during the first 5 days of the accumulation period before the items become available to other DoD activities. The ICPs must send their request to: DLA Disposition Services, Hart-Dole-Inouye Federal Center, 74 North Washington Avenue, Suite 2429, Battle Creek, Michigan 49037.

(B) The DoD ICP or IMM will screen these notifications to determine if needs exist. DLA Disposition Services site excesses will be reutilized to satisfy known or projected buy and repair needs.

(C) Orders for property during the internal screening periods will be prepared according to MILSTRIP and submitted to DLA Disposition Services.

(ix) *Issues to and turn-ins by special programs and activities*—(A) *DoD HAP.* (*1*) The DoD HAP is authorized to dispose excess property through DoD DLA Disposition Services site channels.

(*2*) Providing non-lethal DoD excess personal property for humanitarian purposes is authorized pursuant to 10 U.S.C. 2557. Preparation and transportation of this property is carried out in accordance with 10 U.S.C. 2661. HAP allows DoD to make available, prepare, and transport non-lethal, excess DoD property for distribution by DOS for humanitarian reasons. The program is managed by the DSCA Office of Humanitarian Assistance and Demining.

(*3*) In most instances, property issues will be from DLA Disposition Services inventories. The most commonly requested types of property are medical equipment, field gear, tools, clothing, rations, light vehicles, construction, and engineering equipment. DLA Disposition Services sites will issue all property destined for the HAP, with the exception of drugs and biologicals (Federal Supply Classification Code (FSC) 6505), which may be issued directly by the Military Departments. HAP orders and issues will be documented on DD Form 1348–1A ''Issue Release/Receipt Document.''

(B) *LEAs.* In accordance with 10 U.S.C. 2576a, DLA has established an office to permit civil police authority to acquire excess DoD property, and the Web site *https://www.dispositionservices.dla.mil/rtd03/leso/index.shtml* provides information to assist with the process. LEAs can contact DLA Disposition Services at: DLA Disposition Services, Hart-Dole-Inouye Federal Center, 74 North Washington Avenue, Suite 2429, Battle Creek, Michigan 49037, Toll free: 1–877–DLA–CALL, DSN: 661–7766, Commercial/FTS 269–961–7766.

(*1*) 10 U.S.C. 2576a authorizes the Secretary of Defense, in consultation with the Director, Office of National Drug Control Policy, and DOJ, to transfer excess DoD property, including small arms, light weapons, and ammunition, to federal and State LEAs, including counterdrug and counterterrorism activities. The federal program is known as the 1033 Program. The DLA Disposition Services has managerial responsibilities in support of such transfers and will establish business relationships with participating States by memorandum of agreement (MOA).

(*2*) LEAs will return sensitive or controlled DEMIL-required property originally ordered from DLA Disposition Services when no longer needed. DEMIL-required equipment that is the responsibility of the LEA must be demilitarized in accordance with DoD 4160.28–M Volumes 1–3. Due to constant changes and development of new technology, Table 4 of this section is only a partial list of NSNs that may contain radioactive components as identified for Army Navy (AN) night vision equipment codes in DoD 4160.28–M, Volume 2. These NSNs and many others should not be transferred to DLA Disposition Services sites. The turn-in activity will verify with the DLA Disposition Services site whether equipment contains radioactive components before turning in any night vision equipment.

TABLE 4—NSNS WITH RADIOACTIVE COMPONENTS

NSN No.	Radioactive component
5855–00–053–3142	AN/TVS–4 (prototype)
5855–00–087–2942	AN/PVS–1
5855–00–087–2947	AN/PVS–2
5855–00–087–2974	AN/PVS–1
5855–00–087–3114	AN/TVS–2
5855–00–113–5680	MX–8201
5855–00–156–4992	AN/PVS–3A
5855–00–156–4993	MX–8201A
5855–00–179–3708	AN/PVS–2A
5855–00–179–3709	MX–7833
5855–00–400–2619	MX–7833A
5855–00–484–8638	AN/TVS–2B
5855–00–688–9956	AN/TVS–4
5855–00–688–9957	AN/TVS–4
5855–00–760–3869	AN/PVS–2B
5855–00–760–3870	AN/TVS–4A
5855–00–791–3358	AN/TVS–2A
5855–00–832–9223	MX–7833
5855–00–832–9341	AN/PVS–3
5855–00–906–0994	AN/TVS–4
5855–00–911–1370	AN/TVS–2
5855–01–093–3080	AN/PAS–7A
5855–00–087–3144	AN/TVS–2

(C) *DoD or service museums.* (*1*) Legal authority is provided by 10 U.S.C. 2572, which allows the loan, gift, or exchange of specified historic or obsolete or condemned military property. Approval authority for museum acquisitions from DLA Disposition Services sites expressly for the purpose of exchange must be granted by the activity having staff supervision over the museum. Approval authority includes:

(*i*) U.S. Army: Chief of Military History (DAMH–MD), 1099 14th Street NW., Washington, DC 20005–3402.

(*ii*) U.S. Navy: Curator for the Navy, Naval Historical Center, Building 108, Washington Navy Yard, Washington, DC 20374–0571.

(*iii*) U.S. Air Force: Director, National Museum of the United States Air Force, HQAFMC, 1100 Spaatz Street, Wright-Patterson AFB, Ohio 45433–7102.

(*iv*) U.S. Marine Corps: Marine Corps History Division, 3079 Moreel Avenue, Quantico, Virginia 22134.

(*v*) U.S. Coast Guard: Coast Guard Historian, Commandant (CG–09224), U.S. Coast Guard Headquarters, Douglas A. Munro Building, 2703 Martin Luther King Jr., Avenue, South East Stop 7031, Washington, DC 20593–7031.

(*2*) The DoD or Military Department museums will use standard DoD processes to dispose excess property using DoDAACs.

(*3*) The DoD and Military Department museums may obtain property from DLA Disposition Services sites for use, display, or exchange. With the exception of historical artifacts,

stockpiling of property obtained from DLA Disposition Services sources for future exchange is prohibited.

(*4*) The normal ordering procedures apply. The DD Form 1348–1A, in addition to routine information, will include:

(*i*) The museum's individual DoDAAC or the DoDAAC of the Service headquarters with central responsibility for historical property.

(*ii*) A statement if the property is to be used for display, exchange, or use (*e.g.,* property needed to maintain the museums' buildings and grounds, for day-to-day housekeeping operations, or to maintain displays).

(*iii*) Only DEMIL Code ''A'' property is requested. Examples of DEMIL Code A items suitable for housekeeping purposes by DoD museums may include: Federal Supply Classification Groups (FSGs) 52—hand tools; 53—hardware; 55—lumber; 56—construction materials; 61—electric wire; 62—lighting fixtures; 71—furniture; 72—furnishings; 75—office supplies; 79—cleaning equipment; 80—brushes and paints. Orders of property for exchange will reflect the DoDAAC of the DoD Military Department museums. An exception to this procedure applies to M151 series, M561, and M792 (Gamma Goat) vehicles. Although coded as DEMIL Code A, exchange of the vehicles is prohibited.

(*5*) DLA Disposition Services sites will:

(*i*) Ensure DEMIL Code A property ordered by a museum for exchange purposes has no current challenges to that code. This applies to all items whether recorded in the DLA Logistic Information Service Federal Logistics Information System Master Item File or not, including scrap and captured military items. Excluded are the M151 series vehicles, hazardous property, and MLI and CCL items, which are not authorized for museum exchanges.

(*ii*) Ensure authorized property ordered by museums for exchange is released to the ordering museum personnel only. Identification of the individual is required. These personnel must be military or civilian employees of the museum, not volunteers or members of the museums' private supporting organizations.

(*6*) The DoD operating activities and Military Departments will:

(*i*) Maintain accountable records according to appropriate DoD and Service regulations of all items withdrawn from DLA Disposition Services sites, to include all materiel transactions, receipts from the DLA Disposition Services site, and transfer and exchange documents.

(*ii*) Provide to DLA Disposition Services a list of all the DoD museums and Service museums authorized to negotiate with DLA Disposition Services sites, including the name of the institution, address, telephone number, and the DoDAAC of the museum.

(D) *National Guard units.* (*1*) National Guard Units will use the standard DoD processes to dispose excess DoD property through the use of DoDAACs.

(*2*) Issues of excess DoD property and FEPP to National Guard units must be approved by the National Guard Bureau or the U.S. Property and Fiscal Officer (USP&FO), or their authorized representative, for the State in which the National Guard unit is located. Requests received from National Guard units that do not contain the signature of the USP&FO, their authorized representative, or the National Guard Bureau, will not be honored.

(E) *Senior ROTC units.* (*1*) Senior ROTCs will use standard DoD processes to dispose excess DoD property using DoDAACs.

(*2*) Military Departments' Senior ROTC units may obtain excess DoD property and FEPP from DLA Disposition Services sites to support supplemental proficiency training programs. Orders to DLA Disposition Services sites must be approved by the installation commander or designee, normally responsible for providing logistical support to the instructors group. Property will be issued to the accountable officer of the school concerned.

(F) *USCG.* As a recognized military service and a branch of the U.S. Armed Forces, and due to the association of the USCG to the U.S. Navy, DLA Disposition Services will accept USCG (DHS) excess property, USCG excess DoD property and FEPP for disposal. The principles outlined in paragraph (c)(3)(i) through (viii) of this section apply.

(*1*) USCG excess DoD property may be transferred to the nearest DLA Disposition Services site after internal USCG screening. Physical retention of the property by the USCG is preferred, especially if size or economics prevent physical transfer.

(*2*) Property physically turned in to the DLA Disposition Services site does not qualify for reimbursement.

(*3*) After the USCG completes all RTD screening for aircraft and vessels, DLA Disposition Services may provide sales services through an in-place MOU that outlines all USCG and DLA Disposition Services responsibilities.

(*4*) USCG aircraft may be transferred to the Aerospace Maintenance and Regeneration Group (AMARG), Davis-Monthan Air Force Base, Arizona, according to the ISSA between the USCG and the USAF.

(*5*) USCG orders must include a citation as to the USCG directive authorizing the unit to obtain the property listed on the order. In addition, the fund citation for transportation must be included on the DTID. Individual floating and shore units of the USCG may be delegated authority to order excess DoD property without Commandant, USCG approval. Indicate the delegating authority on all orders. The DLA Disposition Services site need not validate the authenticity of the authority, but only the fact that such authorization appears on the order.

(G) *U.S. Army Corps of Engineers (COE) civil works property.* (*1*) Based on the association of Civil Works with the U.S. Army, the COE will use Department of the Army DoDAACs to transfer personal property through DLA Disposition Services for disposal, including hazardous property through a service contract.

(*2*) COE civil works activities may order property through DLA Disposition Services as a DoD activity, using an assigned Army DoDAAC or as an FCA, using an address activity code through GSAXcess®.

(H) *MAP Property and Property for FMS.* DoD Directive 5105.22 and paragraph (b) of this section provide additional procedures for MAP property or for property that can be purchased by eligible organizations through FMS.

(*1*) Following the country decision to dispose through DLA Disposition Services, the country and Security Assistance Office will determine, in coordination with DLA Disposition Services, the proper disposal method (*e.g.,* DEMIL or mutilation requirements, security classification, reimbursement decisions).

(*2*) DLA Disposition Services, in coordination with the country and Security Assistance Office will make provision for in-country U.S. personnel, with assistance from local personnel, as appropriate, to act as DLA Disposition Services agent where turn-in by the generating activity and physical handling by the DLA Disposition Services site is impractical. In addition to MILSTRIP documentation requirements of DLM 4000.25–1, the generating activity will include the following data on the electronic turn-in document or DTID for MAP items.

(*i*) Country.

(*ii*) DTID number, to include at a minimum, in the first position, a service code (B, D, K, P, or T); in the second position, a country or activity code in accordance with DoD Directive 5230.20,

and in the third position, the Julian date.

(*iii*) Identification of MAP Address Directory Security Assistance Offices initiating turn-in.

(*iv*) MAP account fund citation.

(*3*) Screen disposable MAP property for reutilization, FMS, and transfer to fill known federal needs. Process disposable MAP property surviving reutilization, FMS screening, and other transfers to sale.

(*4*) Process MAP property used for any purpose other than to meet approved DoD needs for RTD or sale on a reimbursable basis.

(*5*) The allocation of weapons, ammunition, flyable aircraft (rotary and fixed-wing) and selected property will be accomplished by DLA, as coordinated with the Office of Deputy Assistant Secretary of Defense for Supply Chain Integration.

(*6*) All other excess DoD property will be processed through DLA Disposition Services on a first-come, first-served basis.

(I) *DoD contractors and contractor inventory.* (*1*) The disposal of DoD contractor inventory is generally the contractor's responsibility in accordance with 48 CFR 45.602–1 of the Federal Acquisition Regulation, unless the contract specifies that excess DoD property be returned to the government, as a result of a determination by the CO at contract expiration that DLA Disposition Services disposal would be in the best interests of the government. Property physically turned in to the DLA Disposition Services site does not qualify for reimbursement to the generating activity.

(*2*) If property is purchased and retained by a DoD contractor, net proceeds from the sale of the property will be deposited into the generating activity's suspense account.

(*3*) DLM 4000.25–1 permits the Military Department or Defense Agency management control activity (MCA) to withdraw or authorize the withdrawal of specified excess DoD property from DLA Disposition Services sites for use as government-furnished material or government-furnished equipment to support contractual requirements.

(*4*) Orders will be completed in accordance with Chapter 11 of DLM 4000.25–1 and include the DoDAAC assigned to the contractor. These orders must be processed by the MCA having cognizance of the applicable contract.

(*5*) Property ordered must be authorized and listed in the DoD contract(s) for which the property will be used, recorded in the ICP's MCA responsible for the contract, and the use of the ordered property approved by the CO or CO's representative (COR) for such contract(s). Each electronic or manual order (DD Form 1348–1A) must contain the signature and title of the CO or COR authorizing the withdrawal of excess DoD property from the disposal system. Each order must also contain the certification: ''For use under Contract No(s)._____.'' The certification should be signed by an authorized official and should indicate his or her official title.

(*6*) DLA Disposition Services sites cannot guarantee the property withdrawn meets minimum specifications and standards in terms of quality, condition, and safety.

(J) *NAF activities.* (*1*) Includes expense items and NAF resale goods procured by NAF activities such as military exchanges and MWRAs or Services, but excludes commissary store trust fund account equipment.

(*2*) DLA Disposition Services will not process property typically reclaimed from customers by the military exchanges such as used batteries, tires, oils, etc., as a part of their normal business. The NAF must process property in accordance with the guidance shown under Army and Air Force Exchange Service in DoD Manual 4160.21, Volume 4 for disposal of these assets.

(*3*) Acceptable types of property will be processed for federal screening only and are not eligible for donation. They are eligible for reutilization or transfer provided the generating NAF activities waive reimbursement or negotiate reimbursement with the ordering activity.

(*i*) The generating activity will provide a statement on the DTID that the property was purchased with NAF to obtain appropriate reimbursement. If the DTID does not contain this citation, the property will be processed as normal excess DoD property.

(*ii*) In addition to standard entries, documentation will contain the unit cost (in lieu of the Federal Logistics Data acquisition cost) recorded in the financial and accounting records of the NAF activity. DLA Disposition Services sites will use this value for inventory, reporting, reutilization, transfer, and sale purposes.

(*iii*) Reimbursement will be completed between the generating activity and the order for property reutilized or transferred. Sales proceeds will be deposited in accordance with Volume 11a, chapter 5 of DoD 7000.14–R (unless otherwise directed or superseded).

(*4*) DoD MWRAs or Services may order excess DoD property and FEPP through the MWRAs/Services that have a DoDAAC on file with the DAAS. Requests for small arms or light weapons must be ordered by servicing accountable officers only and be approved by the designated DoD focal point as identified in Table 4 of this subpart. See DoD Manual 4160.21 Volume 4 for guidelines on reutilization of small arms and light weapons.

(*5*) NAF property ordered by or through a servicing accountable officer will be used and accounted for the same as all procurements, according to applicable Military Department or Defense Agency procedures.

(*6*) Orders received by DLA Disposition Services sites directly from an MWRA or Military Department accountable officer will be for administrative and other purposes from which individuals will realize no direct benefits.

(*7*) Orders will contain the MWRA or Service account number, the signature of the MWRA or Service Accountable Officer, and a statement that the property obtained without reimbursement will be identified separately in accounting records from property for which reimbursement was made. The order will include the statement that, when such property is obtained without reimbursement is no longer needed, it will be turned in to the nearest DLA Disposition Services site and that no part of the proceeds from sale or other disposition will be returned to the MWRAs or Services. Perpetuate this information from the order in follow-on documentation.

(*8*) If the property is not reutilized, transferred, or sold, DLA Disposition Services will notify the NAF activity that accountability will revert to the NAF activity and further disposal processing will be the responsibility of the NAF activity. If the DLA Disposition Services site has taken physical custody, the NAF activity will be responsible for retrieving the property.

(K) *MARS.* (*1*) MARS is an appropriated fund activity that operates under the jurisdiction of the Military Departments and is an integral part of the DoD communication system. MARS units will use standard DoD processes to dispose excess DoD property using DoDAACs.

(*2*) The Military Departments responsible for MARS are authorized to order excess DoD property and FEPP through their respective accountable officers. The following ordering stipulations apply:

(*i*) Designation of accountable officers and representatives authorized to screen and obtain excess DoD property and FEPP at DLA Disposition Services sites is described in this section.

(*ii*) The property ordered is for immediate use by a MARS member or member station for its intended purpose; property may not be acquired for storage. When property requested is to be used for reclamation, written approval for such action must be obtained in advance from the Military Department MARS chief in coordination with the accountable officer. Property ordered for reclamation is limited to materiel in DCC X or S.

(*iii*) Excess DoD property and FEPP ordered from a DLA Disposition Services site for MARS may be shipped to a DoD activity or picked up at a DLA Disposition Services site by personnel who are appropriately identified and approved. Property ordered for reclamation is designated for local pickup only at the DLA Disposition Services site. Maintain accountability of residue in accordance with Military Department directives.

(*3*) The accountable officer will maintain accountability for all property acquired and issued to MARS members and MARS member stations. The property remains government property.

(*4*) When the property is no longer needed for use by the MARS, the accountable officer arranges for the equipment to be turned in to the nearest DLA Disposition Services site, if economically feasible. If it is not economically feasible to turn in the property, the accountable officer will employ A/D procedures according to Enclosure 4 of DoD Manual 4160.21, Volume 2.

(*5*) The respective Military Department may limit MARS orders to selected FSCs.

(*6*) The release of property to MARS activities is governed by the following procedures:

(*i*) *Army MARS.* In CONUS, the authority to order and obtain excess DoD property and FEPP to fill valid requirements is vested in the accountable MARS Program Manager (MPM) appointed by the Chief, Army MARS. Outside the CONUS, the authority to order and obtain excess DoD property and FEPP for the Army MARS program is vested in the 5th Signal Command MARS Director (Europe); 1st Signal Brigade U.S. Army Information System Command (USAISC) (Korea); USAISC Japan; and USAISC Western Command (Hawaii). The MPM who is the accountable officer appointed by the Chief, Army MARS will originate and sign all orders. Process orders through the applicable accountable officer for MARS equipment.

(*ii*) *Navy/Marine Corps MARS (NAVMARCORMARS).* In CONUS, the authority to originate orders for excess DoD property and FEPP to fill valid requirements in the NAVMARCORMARS program is vested in the Chief, NAVMARCORMARS; Deputy Chief, NAVMARCORMARS; Directors of the 1st, 2nd, 3rd, 4th, 5th, and 7th MARS Regions; and the Officer in Charge, Headquarters Radio Station. All orders must be signed by the Chief, NAVMARCORMARS, or the Deputy Chief, NAVMARCORMARS. Process orders through the applicable accountable officer. Outside the CONUS, the authority to originate orders comes from Chief, NAVMARCORMARS; the Deputy Chief, NAVMARCORMARS; or a regional director or a specific designee of the Chief, NAVMARCORMARS. Process orders through the applicable accountable officer.

(*iii*) *USAF MARS.* The Office of the Chief, USAF MARS, and staff, active duty Installation MARS Directors (IMDs), and active MARS affiliates are authorized to screen and identify property for USAF MARS use. MARS affiliates are identified by a valid AF Form 3666, ''Military Affiliate Radio System Station License and Identification Card,'' signed by the Chief, USAF MARS. The IMD is appointed in writing by the installation commander or a designated representative; this appointment constitutes authority for screening and identification of property. Orders for property for MARS reutilization must be approved by the Chief, USAF MARS, or designated representative; this approval authority cannot be delegated. All approved orders will be processed through the USAF MARS Accountable Property Officer or designated alternate, who will initiate and sign a DD Form 1348–1A to authorize release of identified property. Authority to sign release documents will not be delegated. The accountable officer maintains current and valid identification of their MARS members to prevent unauthorized screening by MARS members or former members.

(L) *CAP.* (*1*) The CAP is the official auxiliary of the USAF and is eligible to receive excess DoD property and FEPP without reimbursement subject to the approval of the Headquarters USAF, CAP (HQ CAP–USAF). Title to the property is transferred to the CAP upon the condition that the property be used by the CAP to support valid mission requirements. Authority for the CAP members to screen and obtain excess DoD property will be in writing and signed by an authorized official of the CAP–USAF. HQ CAP–USAF retains the authority to approve and control the types and amounts of items obtained by the CAP.

(*2*) The CAP will remain accountable for all property acquired from the DoD disposal system and will maintain and safeguard the property from loss or damage. The CAP and its members are strictly prohibited from selling, donating, or bartering property previously obtained from the DoD disposal system under any circumstances.

(*3*) The CAP is not eligible to screen or receive AMARG aircraft reported by the Military Departments and other governmental agencies. If flyable non-AMARG category ''A'' aircraft made available for screening by an owning Military Department are selected for issue and approved by the HQ CAP–USAF to fulfill valid CAP mission needs, the following procedures apply:

(*i*) *Flyable aircraft.* The head of the owning Military Department will issue the aircraft to the accounts specified by the HQ CAP–USAF, ensuring that data plates and all available historical and modification records accompany the aircraft. The aircraft will be issued to the CAP upon condition that it be used by the CAP to support valid mission requirements. Prior to issuance, the appropriate CAP corporate officer (wing commander or higher) will execute a conditional gift agreement that specifies that the aircraft (parts, etc.) be issued and delivered to AMARG when it becomes excess to CAP's mission needs. When the aircraft is no longer needed by the CAP, or as otherwise directed by the HQ CAP–USAF, the CAP will make arrangements through the HQ CAP–USAF for issue and delivery of the aircraft, data plates, and historical and modification records to AMARG.

(*ii*) *Reclamation of parts.* If the HQ CAP–USAF elects to allow the CAP to use the aircraft for parts reclamation, the HQ CAP–USAF will contact the owning Military Department to make arrangements concerning reclamation of parts by the CAP. If the CAP declines to reclaim parts and components from the aircraft, the CAP will arrange through the HQ CAP–USAF for issue and delivery of the aircraft, data plates, and historical and modification records to AMARG.

(*iii*) *CAP aircraft.* All CAP aircraft delivered to AMARG will be reported to the GSA for use by FCAs and authorized donees. The CAP and its members are strictly prohibited from selling, donating, or bartering aircraft obtained from a Military Department under any circumstances.

(*4*) The CAP units will use assigned DoDAACs beginning in ''FG'' to transfer and order excess personal property.

(*5*) CAP members will identify themselves for pickup of property as stated in this section.

(M) *Federal Civilian Agencies (FCAs).* (*1*) These organizations include any non-defense executive agency or any member of the legislative or judicial branch of the government.

(*2*) The processes discussed in this section apply to FCAs transferring to and ordering excess DoD property from DLA Disposition Services sites.

(*3*) FCAs that want to use DLA Disposition Services for disposition management instead of GSA are required to review and follow instructions provided on the DLA Disposition Services Web site and to:

(*i*) Comply with 31 U.S.C. 1535 (also known as the Economy Act).

(*ii*) Initiate an Economy Act Order with DLA Disposition Services Comptroller for establishing financial transactions. Final acceptance of the Economy Act Order constitutes authority for FCAs to use DLA Disposition Services. The Economy Act Order must be renewed on October 1 of each year. DLA Disposition Services transaction activity billing (TAB) rates, sales rates, and actual disposal rates are used for billing FCAs. TAB rates are available on the DLA Disposition Services Web site. DLA Disposition Services will bill and the FCA will pay all costs for services rendered. Billing documentation will include contract line item number, administrative, and services costs, and will be processed quarterly.

(*iii*) Ensure all laws and regulations are properly met prior to initiating a transfer transaction. Use DoD Instruction 4160.28; 41 CFR chapters 101 and 102; 48 CFR subpart 9.4 and 48 CFR 45.602–1, 52.233–1, and 14.407 of the FAR, current edition; and 5 U.S.C. 552, Volume 11a, Chapter 5 of DoD 7000.14–R, and Office of Management and Budget Circular A–76, ''Performance of Commercial Activities'' (available at *http://www.whitehouse.gov/omb/circulars_a076_a76_incl_tech_correction*) as governing documents.

(*iv*) Comply with DLM 4000.25–1, since in-transit control requirements are not applicable to FCA turn-ins.

(*v*) Comply with § 273.7(d), (e), and (f) for transferring excess DoD property, using DD Form 1348–1A or DD Form 1348–2, ''Issue Release/Receipt Document with Address Label,'' as DTIDs. Schedule turn-ins with the DLA Disposition Services site and assume responsibility for delivering usable and scrap property to DLA Disposition Services sites. Non-hazardous property may be received in-place using the standard DoD receipt in-place processes. Hazardous property cannot be physically accepted at the DLA Disposition Services site and will be processed in-place only, in accordance with paragraphs (c)(3)(viii)(M)(*3*)(*vi*) and (*vii*) of this section. Property will normally be turned in as individual line items; however, batchlotting by FSC of non-hazardous items with a combined acquisition value of up to $800 is permitted. Identify the transaction by using their officially assigned FCA activity address code (AAC). The first position of the AAC begins with 1 through 9. Annotate ''XP'' funding code in blocks 52 and 53 and a disposal authority code of ''F'' in position 64 of the DTID. Annotate the DLA Disposition Services Economy Act Order Assigned Number in block 27. Include appropriate hazardous property documents containing the required information found in Volume 4 of DoD 4160.21–M. Ensure that no radioactive material, waste, or other excluded hazardous property is turned in to the DLA Disposition Services site. Cover costs associated with substantiated sale contracts claims, if negligence or fault is established. Contact the appropriate DLA Disposition Services site for procedures to use when inventory discrepancies surface for property that the FCA is designated the custodian. The FCA will research and provide a report of the lost, damaged, or destroyed property. Procedures are contained in accordance with Volume 12, Chapter 7 of DoD 7000.14–R.

(*vi*) Work with DLA Disposition Services to obtain HW disposal contract support, pursuant to the provisions of the FAR; for hazardous property, FCAs will define disposal service requirements for HW disposal and provide a yearly estimate of HW streams that may be generated and placed on DLA Disposition Services disposal service contracts; cover costs associated with substantiated contracts claims, if negligence or fault is established; maintain physical custody of hazardous property; provide a designated FCA representative to act as a CO's technical representative during pickup of hazardous property, and identify who will be trained and authorized to release the property for shipment, including signing shipping documents according to the procedures provided in 49 CFR part 172, subpart H.

(*vii*) Comply with the following liability provisions. Should any DLA HW disposal contractors' actions on behalf of the FCA result in a notice of potential liability to DLA or the FCA under 42 U.S.C. 9601 *et seq.* (also known as the Comprehensive Environmental Response, Compensation and Liability Act), 42 U.S.C. 6901 *et seq.* (also known as the Resource Conservation and Recovery Act), or any other provision of federal or State law, immediate notification will be provided to DLA Disposition Services or the FCA. The FCA retains ultimate liability for hazardous property; FCAs will be responsible for environmental response costs attributable to their generated hazardous property. FCA is considered the generator for reporting purposes in accordance with 42 U.S.C. 6901 *et seq.* and 9601 *et seq.;* According to the terms of DLA Disposition Services HW disposal contracts, DLA Disposition Services disposal contractors are responsible for spills or leaks during the performance of their contracts, which result from the actions of the contractors' agents or employees; At no time will the DLA Disposition Services site dispose FCA excess DoD property or any provision of a HW contract for FCA property be interpreted or construed to require that funds be obligated or paid in violation of 31 U.S.C. 1341 or any other provisions of law.

(*4*) FCAs will:

(*i*) Work with DLA Disposition Services for DEMIL-required disposal support in accordance with the provisions of DoD Instruction 4160.28.

(*ii*) Reimburse DLA Disposition Services for A/D-related services.

(*iii*) Continue to turn in PM-bearing property at no charge in support of the DoD PMRP according to the procedures in Enclosure 5 to DoD Manual 4160.21, Volume 2. These transactions are accomplished through an ISSA.

(*iv*) Pay for all services rendered, according to established requirements and fees.

(*5*) Two months prior to the Economy Act Order's expiration, the FCA will notify the DLA Disposition Services Comptroller whether continued services are desired.

(*i*) If the Economy Act Order has not been re-established, DLA Disposition Services will continue to receive property for 60 days.

(*ii*) FCAs will continue payments until all property that was received within the fiscal year has been processed, even if the Economy Act Order has expired.

(*iii*) FCAs will pay at the rates established or re-established and maintain internal procedures to track DTIDs against billings for reconciliation.

(*6*) The policies in 41 CFR chapter 101 will be implemented when:

(*i*) An official Economy Act Order is finalized and the DLA Disposition Services Finance Office ensures that an officially assigned FCA AAC is in the

DLA Disposition Services Accounting System. (This will indicate to DLA Disposition Services sites that receipt of excess property from the requesting FCA is authorized.)

(*ii*) A provisional copy or signed copy of a DD Form 1348–1A is the instant at which accountability for the FCA property (non-hazardous or hazardous) is transferred to a DLA Disposition Services site.

(*7*) If at any time any issue requires resolution, a team approach will be used at the turn-in activity and DLA Disposition Services site level. Disputes that cannot be resolved will be elevated to the next corresponding level of the FCA and the DLA Disposition Services. If necessary, alternative dispute resolution will be used.

(*8*) DLA Disposition Services sites will:

(*i*) Reserve the right to refuse any turn-in due to workload or resource constraints if support would seriously impair the DLA mission for the DoD.

(*ii*) Receive and screen FCA property using the same method used for excess DoD property, except property will not be made available to those special program organizations who, because of enabling legislation, may only obtain excess DoD property; *e.g.,* HAP, law enforcement support offices, and SEAs.

(*9*) Sales proceeds, if any, will be deposited into the U.S. Treasury as miscellaneous receipts, unless otherwise specified by law. No reimbursement of proceeds will be made to the FCA. Contract claims resulting from the sale of federal property may be the responsibility of the FCA.

(*10*) For hazardous property, DLA Disposition Services will notify FCAs of any:

(*i*) New procedures pertaining to the disposal process or funding changes. HW contracts may be modified by mutual written consent of the parties. Modifications requiring resource changes may be given with enough advance notification for revisions or adjustments to be made during the budget formulation process and the hazardous disposal service contract process.

(*ii*) Proposed changes to administrative support costs at least 60 days in advance of a change.

(*11*) DLA Disposition Services will ensure DEMIL-required property and property that may require export controls are processed appropriately. Property requiring DEMIL may be shipped to an alternate location either by DLA Disposition Services or by an FCA. These charges are included in the TAB rates.

(*12*) FCAs desiring to order excess DoD property from DLA Disposition Services sites will follow the GSA procedures for acquiring property through GSAXcess®. Once excess DoD property is physically obtained from DLA Disposition Services, the property belongs to and must be disposed by the FCA. This includes property that is DEMIL or mutilation required. Turn-in of previously ordered property from the DLA Disposition Services will be accepted from only those FCAs that have established an Economy Act Order.

(*13*) FCAs may continue to participate in the DoD PMRP at no charge, in accordance with Enclosure 5 to DoD Manual 4160.21, Volume 2. These transactions are accomplished via an ISSA between DLA Disposition Services and FCAs.

(O) *U.S. Postal Service (USPS).* (*1*) USPS is not authorized to dispose excess DoD property through DLA Disposition Services without an FCA intragovernmental agreement.

(*2*) If such an agreement is executed:

(*i*) Items of a strictly postal nature, such as a carrier satchel embossed ''U.S. Mail,'' postal scales, or other equipment so similar in nature or design to official USPS equipment as to cause confusion may not be turned in to DLA Disposition Services sites, sold, or disposed to the general public until the USPS has been notified of the intended disposition and offered an opportunity to inspect the equipment. DLA Disposition Services sites will notify local post office inspectors of the existence of this property and arrange for its inspection if the USPS wants to prevent it from falling into the hands of unauthorized persons.

(*ii*) DoD purchased or owned postal equipment with official postal identification markings may be transferred to the USPS through DLA Disposition Services site processing, under the standard transfer policies in 41 CFR chapter 101. If transferred from DoD Components without going through an official DLA Disposition Services site, the DoD activity will negotiate with USPS for fair market reimbursement.

(*iii*) Property not transferred that contains markings that would tend to confuse this property with official USPS equipment will have the markings removed before release for DLA Disposition Services site processing.

(*iv*) Excess DoD postal equipment loaned to DoD Components by the USPS will be returned to the USPS.

(P) *American National Red Cross.* Property that was processed or donated by the American National Red Cross to a Military Department and becomes excess DoD property may not be disposed without notice to and consultation with the American National Red Cross. This property will be returned without reimbursement to the American National Red Cross upon request, if that organization pays packing and shipping costs.

(Q) *DoD Computers for Learning (CFL).* The DoD CFL program implements Executive Order 12999, ''Educational Technology: Ensuring Opportunity for All Children in the Next Century'' and enables DoD to transfer excess IT equipment to pre-kindergarten through grade 12 schools and educational non-profit organizations through a DLA Disposition Services web-based program. The DLA Disposition Services program replaces the DoD Computers for School, Educational Institution Partnership Program that was overseen by the Defense Information Systems Agency.

(*1*) Eligible educational organizations serve pre-kindergarten through grade 12 students and are public, private, or parochial schools or educational nonprofits classified as tax-exempt under section 501c of the United States tax code. Schools and educational nonprofits must be located within the United States and its territories.

(*i*) Schools must register in the DLA Disposition Services web-based CFL program and complete all point of contact and profile information.

(*ii*) Schools must ensure that IT equipment transferred will be used for student and faculty training to augment existing IT equipment, to strengthen their infrastructure, or for other academic-related programs.

(*iii*) All costs incurred in connection with the transfer of equipment through the CFL will be the responsibility of the school and include: Expenses in connection with the school's inspection of the IT equipment at DoD sites; cost of packing, crating, marking, and loading the equipment on the carrier's conveyance for transportation; and cost of transportation from DoD sites.

(*2*) DoD IT equipment FSG 70 with a DEMIL Code of A and DEMIL Code of Q with an Integrity Code of 6 that is located in CONUS and has been accepted to a DLA Disposition Services site's accountability records is eligible for transfer within DoD CFL once DoD screening is complete and the inventory is not requisitioned by DoD.

(*3*) IT equipment is available on an ''as-is'' basis, without warranties from DoD as to the condition of the equipment. Eligible equipment includes mainframes, minicomputers, microcomputers, modems, disk drives, printers, and items that are defined

within the FSG 70 and are appropriate for use in CFL.

(*4*) After the DoD excess screening is completed, providing there are no DoD requests, DLA Disposition Services will:

(*i*) Make provisions for schools to receive information concerning DoD IT equipment that is available for transfer.

(*ii*) Notify the schools of available equipment that matches the profile submitted by the school.

(*iii*) ''Freeze'' the equipment when the school verifies a need so that other schools cannot be offered the same equipment.

(*iv*) Review, approve, and notify generating activities to transfer to a school by generating a MRO from DLA Disposition Services system for accounting for excess surplus property in DoD to decrement quantity and preclude transmission to the FEDS.

(*v*) While holding for transfer to schools, the following applies: 7-day accumulation (DoD can order anytime) and 14-day DoD screening (DoD can order anytime).

(*vi*) On day 14, if still available, DLA Disposition Services will freeze the property and create a MILSTRIP initiating a transfer to school transaction. DLA Disposition Services will send MILSTRIP to the generating activity, who will arrange for the school to remove the item. Schools authorized a transfer are responsible for arranging the pickup or shipping of IT equipment.

(*vii*) The IT equipment not designated to schools during the DoD CFL timeframe will be transmitted to GSAXcess® for FCAs and donees.

(*viii*) Generating activities can specify a school for intended transfer once DLA Disposition Services has accountability of the equipment, through the DLA Disposition Services web-based CFL program. From the DLA Disposition Services Home Page, the user may click on Property Search for Military, Federal, State, and Special Programs, then click on ''Computers for Learning.'' The CFL Program enables the generating activity to view the IT equipment that was turned in under their DoDAAC and then designate that equipment to approved schools. The generating activity has 7 days to make this selection; otherwise, the equipment can be viewed by any eligible educational activity.

(*ix*) Equipment not identified by a generating activity for a specific school will be made available to schools and educational non-profit organizations that are approved within CFL.

(*x*) The authorized school is responsible for coordinating with the generating activity for the removal of equipment.

(*xi*) The authorized school has 14 days after receipt of authorization to remove the equipment.

(*xii*) If the school does not remove the equipment within the 14 days, the generating activity will notify the DLA Disposition Services site of the non-removal.

(*xiii*) Upon receipt of notification, the DLA Disposition Services site will notify DLA Disposition Services to cancel the order.

(R) *Firefighter Transfer Program.* The DoD has authorized the U.S. Department of Agriculture Forestry Service (USDA FS) to manage DoD firefighting property transfers provided for in accordance with 10 U.S.C. 2576b. Title to all Firefighter Property Transfer Program property will pass to the State upon:

(*1*) The State taking possession of the equipment (such as removing or having the equipment removed from a DLA Disposition Services site).

(*2*) The State receiving a DD 1348, ''DoD Single Line Item Requisition System Document (Manual),'' or SF 97 or both for the equipment. The DD Form 1348 or SF 97 will indicate which property requires DEMIL (DEMIL Codes C, D, and F).

(*3*) The USDA FS will track all equipment requiring DEMIL until final disposition and require the State to ensure that such equipment is either transferred to another DoD agency authorized to receive it or is returned to a DLA Disposition Services site when no longer required. USDA FS will require the State coordinate any such transfers and returns with the Distribution Reutilization Policy Directorate at DLA prior to the transfer. The recipients are responsible for funding shipment or removal.

(x) *Expedited processing (EP).* (A) EP is the approved reduction of screening timeframes. In the zone of interior (ZI), EP may be used on a case-by-case basis. Situations where EP may be considered include backlog situations, potential deterioration from outside storage, or other compelling reasons.

(B) GSA is the approving authority for EP for non-DEMIL required property within the ZI. DLA Disposition Services is the approving authority for DEMIL-required property within the ZI.

(C) Current automation technology allows items going through EP to be visible on the DLA Disposition Services Web site and GSAXcess®.

(D) In contingency operations the supported Combatant Command has the authority to accelerate screening timelines based on mission requirements and operational tempo.

(xi) *Screener identification and authorization.* (A) Individuals visiting DLA Disposition Services sites to view, order, or remove property or for any other reason are required to provide proper identification as authorized representatives of a valid recipient activity.

(*1*) Upon arrival at the DLA Disposition Services site, the individuals will sign the vehicle or visitor register indicating the vehicle registration number and the purpose of their visit.

(*2*) Visitors representing donation recipients will only be allowed to complete the tasks identified under ''purpose of visit'' on the vehicle or visitor register.

(*3*) All screeners will specify the DoDAAC or AAC for which they are inspecting.

(B) DoD screeners will further identify themselves as authorized representatives of a DoD Component by means of a current employee or Military personnel identification issued by the DoD activity.

(C) FCA screeners will present current employee identification as valid authorization. This also applies to screeners representing mixed-ownership USG corporations.

(D) Non-federal screeners will present an authorization on the letterhead of the sponsoring activity, identifying the bearer and indicating the nature of the authorization. This letter of authorization will be updated at least annually or as changes occur.

(E) All SEA screeners will present a valid driver's license or other State-approved picture identification or the letter of authorization.

(F) DLA Disposition Services sites will refer problems in identifying screeners to the activity commander. For FCA and donation screeners, refer to the proper GSA regional office.

(xii) *Screening for property at DLA Disposition Services sites.* (A) DLA Disposition Services sites will assist customers interested in obtaining property by referring them to the DLA Disposition Services Web site or by providing guidance for physical inspection and location of property. Assistance may also include use of a customer-designated personal computer to screen assets worldwide and establish a pre-defined customer want list.

(B) When a prospective donation recipient contacts a DLA Disposition Services site or military installation regarding possible acquisition of surplus property, the individual or organization will be advised to contact the applicable SASP for determination of eligibility and procedures.

(4) *Orders for FEPP, excess, and surplus property from DLA Disposition*

Services and GSA—(i) *General.* (A) DoD activities, FCAs, and other authorized activities are permitted to order DoD FEPP, excess, and surplus personal property based on the property status at the time the authorized screener identifies its availability from the DLA Disposition Services Web site. This property may be ordered through DLA Disposition Services or GSA.

(B) DLM 4000.25–1 requires orders for property on the DLA Disposition Services site's accountable records to be prepared on DD Forms 1348–1A or 1348–2. The use of the DLA Disposition Services Web site allows orders to be processed without hard copies of DD Forms 1348–1A or 1348–2. A separate order is required for each line item on a DLA Disposition Services site's inventory (except batchlots that are grouped together). The shopper will furnish the appropriate information either electronically or by hard copy.

(C) Orders for property in the GSA screening cycle will be submitted through GSAXcess®. Customers are required to complete and submit the SF 122 ''Transfer Order Excess Personal Property'' to GSA. GSA will then transmit the order to DLA Disposition Services.

(D) DoD activities (other than MWRAs or Services, which are covered in § 273.6) must request Military Department or Defense Agency excess and FEPP through servicing accountable officers or their designated representatives.

(E) See § 273.6 for special guidance affecting USCG ordering.

(F) U.S. Army accountable supply officers should check with their finance accounting office prior to requesting items from DLA Disposition Services. Often, Army customers are billed internally for the items they have ordered from DLA Disposition Services.

(G) The following principles apply to acquiring property from these sources, including Federal regulations, which apply to the Department of Defense, special programs and activities, FCAs, and donees when acquiring excess or surplus personal property:

(*1*) There must be an authorized requirement.

(*2*) The cost of acquiring and maintaining the excess personal property (including packaging, shipping, pickup, and necessary repairs) does not exceed the cost of purchasing and maintaining new materiel and does not exceed the value of property requested.

(*3*) The sources of spare parts or repair and maintenance services to support the acquired item are readily accessible.

(*4*) The supply of excess parts acquired must not exceed the life expectancy of the equipment supported.

(*5*) The excess personal property will fulfill the required need with reasonable certainty without sacrificing mission or schedule.

(*6*) Excess personal property must NOT be acquired with the intent to sell or trade for other assets.

(*7*) DoD activities will request only that property that is authorized by the parent HQ or command. Activities may not request quantities of property exceeding authorized retention limits.

(H) The special screening programs will request only property that is authorized by the program or activity accountable officer or program manager, whichever is applicable. If the special screening programs want DLA Disposition Services site to verify the FSC has been authorized before release, the accountable officer or program manager must provide a current authorized FSC list to the DLA Disposition Services site. The removal agent must sign any certification required, acknowledging understanding of rules of disposal, prior to removal of the property.

(I) The Military Department accountable officer who designates DoD individuals to sign orders on their behalf must provide DLA Disposition Services sites with an electronic letter of authorization, identifying those individuals. The template for the letter is on the DLA Disposition Services Web site. It will include the full name, activity, DoDAAC, telephone number, address, and signature of the individuals authorized to sign and authenticate MROs. These individuals may be different from those who are the initial shoppers or those picking up the property.

(ii) *Emergency requests.* (A) Telephone requests during non-duty hours may be made by contacting the DLA Disposition Services staff duty officer (SDO) (DSN 661–4233; Commercial, 269–961–4233). Under these circumstances, the SDO will record the request and will contact the DLA Disposition Services program manager to initiate proper action.

(B) If a DoD activity has an emergency need for a surplus DoD item in the possession of a SASP, it may be requested from that SASP. The acquiring DoD activity must pay any costs of care, handling, and transportation that were incurred by the SASP in acquiring this property.

(C) For requests for property to fill training aid and target need orders, see ''Training Aids and Target Requirements'' in paragraph 147 of Enclosure 3 of DoD Manual 4160.21, Volume 4.

(iii) *Late orders.* (A) If a DoD order is received after the screening timeline has expired, the customer will provide justification as to the true necessity for the property requested, indicating why other comparable property in the DLA Disposition Services inventory does not satisfy the need. See paragraph (a) of this section for more guidance if the property needs to be withdrawn from sale.

(B) Orders for property received during the GSAXcess® screening period must be submitted according to GSA ordering procedures.

(iv) *Requests for small arms and light weapons.* Small arms and light weapons (see § 273.12) will be processed according to the guidance in DoD Manual 4160.21, Volume 4. Table 5 of this section contains a list of Military Department and Defense Agency designated control points authorized to initiate orders or through which orders must be routed for review and approval before issue can be effected.

TABLE 5—DOD DESIGNATED CONTROL POINTS FOR SMALL ARMS AND LIGHT WEAPONS ORDERING, REVIEWING, AND APPROVING

Service/Agency	Control point
Army	Director of Armament and Logistics Activity, Chemical Acquisition, ATTN: AMSTA–AC–ASI, Rock Island, IL 61299–7630, Telephone: DSN 793–7531, Commercial: (309) 782–7531.
Air Force	WR–ALC/GHGAM, 460 Richard Ray Blvd. Suite 221, Robins AFB, GA 31098–1640, Telephone: DSN 497–2877, Commercial: (478) 327–2877.
Marine Corps	Commandant of the Marine Corps, ATTN: LPC, Headquarters, U.S. Marine Corps, 3000 Marine Corps, Pentagon, RM 2E211, Washington, DC 20350, Telephone: DSN 225–8900, Commercial: (703) 695–8900.

TABLE 5—DOD DESIGNATED CONTROL POINTS FOR SMALL ARMS AND LIGHT WEAPONS ORDERING, REVIEWING, AND APPROVING—Continued

Service/Agency	Control point
Coast Guard	Commandant, ATTN: CG–7211, Commandant (CG–7211), U. S. Coast Guard HQ, Douglas A. Munro Bldg., 2703 Martin Luther King Jr. Ave, SE, Stop 7331, Washington, DC 20593–7331, (202) 372–2030.
National Security Agency	National Security Agency, Item Accounting Branch, ATTN: L112, Fort George Meade, MD 20755 6000.
Defense Intelligence Agency	Defense Intelligence Agency, ATTN: RLE 2, Washington, DC 20340 3205.
Defense Threat Reduction Agency	Headquarters, Defense Threat Reduction Agency, 8725 John J. Kingman Road MSC 6201, Fort Belvoir, VA 22060–6201, ATTN: BDLL, Telephone: DSN 427–0785, Commercial (703) 767–0785.

(5) *Condition of property ordered.* Orders authorized by DLA Disposition Services or GSA regional offices will be processed as expeditiously as possible and according to the Uniform Materiel Movement and Issue Priority System priority on the requisition.

(i) DLA Disposition Services sites will determine the property requested is in as good a condition as it was during screening.

(ii) If the ordered property has materially deteriorated from screening or receipt to inspection for shipment, the DLA Disposition Services site will advise the customer before shipment. The shipment will be suspended pending agreement by the customer that the property will be accepted in its present condition.

(iii) Once ordered, and pending receipt of an approved transfer document or removal of the property, no parts may be removed without prior approval of DLA Disposition Services (for DoD orders) or GSA (for transfers and donations), and agreement by the customer that the property will be accepted in its altered condition.

(6) *Reimbursement requirements.* (i) The generating activity will identify reimbursement requirements on the DTID when transferring property to the DLA Disposition Services site. Although not specifically a DLA Disposition Services responsibility, DLA Disposition Services sites may contact the generating activity when they suspect the generator may be eligible for reimbursement but has not noted it on the DTID.

(ii) Issue of declared Military Department or Defense Agency FEPP, excess and surplus personal property to DoD users will be on a non-reimbursable basis except when the customer is prohibited by law from acquiring FEPP, excess and surplus property without reimbursement or where reimbursement is required by annotations on the receipt DTID. Issues to the USPS require fair-market value reimbursement.

(iii) The requester will transfer funds to the generating activity without DLA Disposition Services site involvement.

(iv) The DLA Disposition Services site will provide the name of the property requiring reimbursement when it is requested by the DoD or an FCA. The requesting activity and the generating activity must agree on the appropriate amount of funds, and how they will be transferred. When this is accomplished, the generating activity must give the DLA Disposition Services site a letter indicating what property is to be transferred and to whom. The DLA Disposition Services site will file a copy of this letter with the issue document to create an audit trail.

(v) Issues of DoD FEPP, excess, and surplus personal property, other than foreign purchased property and other property identified as reimbursable, will be at no cost to FCAs and to SASPs.

(A) Property purchased with working capital funds is not eligible for reimbursement in the transfer or donation program. GSA may direct transfers be made with reimbursement at fair market value.

(B) Public law may prohibit FCAs from obtaining certain property.

(C) FCAs, for the purpose of issue of excess property, include federal executive agencies other than the DoD; wholly owned government corporations; the Senate; the House of Representatives; the Architect of the Capitol and any activities under their direction; the municipal government of the District of Columbia; or non-federal agencies for whom GSA procures.

(vi) Foreign purchased property reimbursements will be at the acquisition value.

(vii) For special programs and activities, DLA Disposition Services sales to special account fund citations may be required in accordance with Volume 11a, Chapter 5 of DoD 7000.14–R. For DLA Disposition Services to provide timely and accurate reimbursements, the transportation account code address in DLA Transaction Services must be correct and current.

(A) In accordance with DoD 4160.28–M Volumes 1–3, all DoD MLI and Commerce Control List (CCL) personal property, whether located within or outside the United States, will be transferred in accordance with 22 CFR parts 120 through 130 and 15 CFR parts 730 through 774.

(*1*) DoD MLI or CCL personal property will not be transferred to any foreign person or entity without DoS or DOC approval, authorization, license, license exception, exemption, or other authorization for the transfer.

(*2*) Such property will not be transferred to prohibited or sanctioned entities identified by the Departments of State, Commerce, and Treasury. A consolidated list of prohibited entities by these Departments may be found at *http://export.gov/ecr/eg_main_023148.asp*.

(*3*) Property will not be transferred to persons or entities from countries proscribed from trade under regulations maintained by the Office of Foreign Assets Control. The agency (*e.g.,* GSA or USAF CAP Program Manager) approving the transaction must determine recipient eligibility prior to issuing the requisition to DLA Disposition Services.

(*4*) If the agency approving the requisition cannot determine that a U.S. person or entity is involved with the property transaction, the recipient must obtain and provide the appropriate license or approval to the agency approving the transaction.

(*5*) Approving agencies must be involved in any subsequent re-transfer requests by the recipient. The recipient must request the agency's permission prior to taking any disposition action. If the approving agency authorizes the potential transfer, the recipient must then comply with 22 CFR parts 120 through 130, also known as the International Traffic in Arms Regulations (ITAR), or 15 CFR parts 730 through 780, also known as the Export Administration Regulations (EAR), as appropriate.

(B) For USML and CCL property, DLA Disposition Services sites will require recipients to sign a statement acknowledging their responsibility to comply with U.S. export laws and regarding regulations. The statement must be signed prior to the release of the

property according to the DEMIL procedures in DoD 4160.28–M Volumes 1–3. If property is destined for export, the recipient must get appropriate export authorizations from the DoS or DOC in accordance with DoD Instruction 2030.08.

(C) DLA Disposition Services sites may issue DEMIL-required property to approved special programs or GSA eligibility-approved FCAs without DEMIL being accomplished.

(*1*) Prior to release from DoD control, DLA Disposition Services sites must obtain a written agreement (see Appendixes 1 and 2 of this section) from the requesting special program or FCA.

(*2*) This agreement acknowledges that the recipient will DEMIL the USML property in accordance with DoD 4160.28–M Volumes 1–3, when the property is no longer needed.

(*3*) The agreement further states that if the property is to be re-transferred, the recipient must obtain approval from its program manager (approving agency) and in coordination with the DoD DEMIL program manager prior to further disposition or before releasing the USML property outside their control. The representative of the recipient is required to sign the DEMIL agreement before release of any USML property.

(*4*) If the recipient requests DLA Disposition Services to perform final disposition, an MOA must be executed or in place with DLA Disposition Services for such services.

(*5*) The DLA Disposition Services site will provide a completed copy of the certification to the GSA and retain a copy with the issue documentation.

(D) DLA Disposition Services sites may transfer CCL (DEMIL Code Q) and non-DEMIL-required USML (DEMIL Code B) property that may have import and export controls to approved special programs or FCAs. Prior to release of such CCL and non-DEMIL-required USML property, the requesting special program or FCA must provide written notification to the DLA Disposition Services site (see Appendixes 3 and 4 of this section). This notification confirms recipient's understanding that export or import of the CCL or non-DEMIL-required USML property is regulated by the USG and in many cases cannot be transferred (exported, imported, sold, etc.) to a foreign person, entity or foreign country without valid USG license or other authorization.

(viii) GSA reviews and approves each order, each in its respective screening cycle (transfer or donation).

(*7*) *Shipment or pick-up elections by customers*—(i) *Criteria for non-RCP property.* (A) DLA Disposition Services will make arrangements for shipment of non-RCP property from Military Department orders unless notified by the DoD Component of the intent to physically pick up the property. DLA Disposition Services has been authorized to use ground services for the movement of reutilization property. The DLA Disposition Services Transportation Office will notify DLA Disposition Services sites of the authorized carrier.

(B) The DoD Component and special programs have 14 calendar days (15 days from the date on the order) to remove the non-RCP property ordered during the DoD screening cycles.

(C) Transfer (FCA) and donee (State agency) customers are always required to make their own pickup and shipment arrangements for non-RCP property orders and have 21 calendar days to remove non-RCP property ordered during the GSAXcess® screening cycle.

(D) Standard transportation or preferred pick up of the property requested by DoD customers who are allocated property by GSA apply.

(*1*) If DoD transfers customers order from the GSAXcess®, they also have 21 days to remove the non-RCP property.

(*2*) Customers required to pick up or arrange direct pickup must do so within the allotted standard removal time period unless it is extended by the DLA Disposition Services site chief. An example of justification for extended removal time would be as a result of a natural disaster (flood, snow, etc.). DLA Disposition Services site personnel may refuse MILSTRIPs or walk-in removals for customers who fail to pick up their property within the removal period and request cancellation of the order.

(ii) *Criteria for RCP property.* (A) DLA Disposition Services will arrange for shipment of RCP property from Military Department and special program orders.

(B) FCAs will designate the method of transportation for RCP property ordered using one of the following options:

(*1*) The FCA arrange with carriers of their choice to remove the property from a designated staging area at the depot; or

(*2*) The FCAs requests the DLA Disposition Services RCP Office to use an approved carrier under the DoD blanket purchase agreement awarded carrier for Domestic Express Small Package Service under the GSA Multiple Award Schedule for shipments of 150 pounds or less at *http://private.amc.af.mil/a4/domexpress/spsindex.html*. Use of this option for the smaller shipments requires a one-time notification to DLA Disposition Services of the preferred carrier and account number in the format.

(C) FCAs must arrange with the carriers of their choice for shipments in excess of 150 pounds.

(D) Donee (State agency) customers are always required to make their own pickup or shipment arrangements for RCP property orders from designated staging areas.

(8) *Packing, crating, and handling.* See § 273.7.

(9) *Shipment and removals (transportation).*—(i) *DoD and designated DoD-supported customers.* (A) Prudence in transportation services benefits the Military Departments, Defense Agencies, MARS, CAP, National Aeronautics and Space Administration (Space Shuttle Support), National Guard Units, Reserve Units, DoD contractor when approved by the CO, Senior ROTC, and MWRA/Services when ordered through the Military Department accountable officer and DLA Disposition Services.

(B) In cases where the cost of the transportation exceeds the acquisition value of the property, DLA Disposition Services sites will evaluate the commodity and its actual value; make a judgment as to its true condition and the priority of the order.

(*1*) The DLA Disposition Services site will contact the customer and provide the property's estimated value and transportation cost to ship the property.

(*2*) If a lower cost transportation mode is available, meets the requirements of the order, and the customer and DLA Disposition Services site agree, the DLA Disposition Services site will arrange for the alternate shipment mode. If it would not be cost effective to ship the property as requested, the customer will be asked to cancel the order.

(*3*) If the customer reconfirms the need for the property, the following certification information will be provided to a DLA Disposition Services site along with the customer reconfirmation statement found in Appendix 5 of this section. DoD activities must prepare, sign, and submit a justification statement for property where the transportation costs exceed 50 percent of the acquisition value of the property. The justification statement will be signed by the Property Book Officer or designated representative and will state:

(*i*) The purpose for which the item is to be used and whether the item is mission-essential to the operation of the requestor's activity.

(*ii*) Any additional information deemed necessary to show criticality of the requisition. The statement should be included with the DD Form 1348. Failure to provide a statement may result in the requisition being canceled.

(C) If the customer determines the shipment is not needed, the customer will initiate cancellation action according to the procedures in DLM 4000.25–1.

(D) The shipper will finance parcel post shipments between DoD agencies without reimbursement.

(ii) *Other customers (excluding transfer and donation customers).* (A) LEAs are responsible for removing or making arrangements for shipments.

(B) MWRAs not ordering property through a military accountable supply officer, DoD museums, academic institutions, and non-profit organizations for educational purposes, Senior ROTC units and FCAs must pay for transportation costs and must provide a fund citation prior to shipment or pick up of the property.

(C) Only one carrier is authorized per agency, and once the agency has designated a carrier, 30 days notice is required to change a carrier.

(D) FMS customers are responsible for most transportation costs associated with the movement of ordered property.

(*1*) The DLA Disposition Services FMS Office will identify exceptions to this rule. Transportation of sensitive and other critical FMS shipments will be coordinated between the DLA Disposition Services FMS Office, the purchasing country, and other DoD agencies, as required. For these shipments, the DLA Disposition Services FMS Office will provide separate instructions and fund citations.

(*2*) Transportation arrangements will be made by the DLA Disposition Services site or by the supporting transportation office.

(E) HAP orders are shipped by DLA Disposition Services by surface to the central point using the most cost-effective mode (and must remain within the assigned theater). At no time will HAP property be shipped by air unless directed by DLA Disposition Services.

(10) *Shipment or denial notifications.* (i) DLA Disposition Services sites will use the guidance in DLM 4000.25–1 to prepare materiel release confirmations in response to MROs received from DLA Disposition Services.

(ii) When shipments are complete, DLA Disposition Services sites will furnish a copy of the shipping document to the customer. This document confirms shipment. The customer will notify the DLA Disposition Services site if the property is not received within a reasonable period of time. FCAs will only be provided a copy of the SF 122, with annotation of the transportation data, when arrangements for DLA Disposition Services sites to ship the property have been made in advance.

(iii) DLA Disposition Services sites will:

(A) Advise the customer if the property requested is no longer available or of acceptable condition.

(B) Document non-availability by a materiel release denial prepared in accordance with DLM 4000.25–1, if item(s) for an MRO are not available.

(C) Issue a letter for all other non-availability notifications, with a copy to GSA if they approved the order. The letter will contain the following data at a minimum:

(*1*) NSN.

(*2*) Order number.

(*3*) Quantity not available.

(11) *Customer removal of ordered property*—(i) *Identification requirements.* When a customer (DoD election to pick up property ordered from the DLA Disposition Services site or an FCA or donee) makes removal arrangements, the individuals removing the property must be properly identified. Coordinate with DLA Disposition Services prior to arrival to complete and transmit documents for identification.

(A) Upon arrival at the DLA Disposition Services site, the individuals will identify themselves, sign a DLA Disposition Services visitor and vehicle register and indicate on the register the DoDAAC represented (for DoD activities) or AAC represented (for non-DoD activities), and the purpose of the visit.

(B) Visitor and vehicle registers will be readily accessible (see paragraph (c) of this section).

(ii) *Documentation requirements.* (A) Customers will:

(*1*) Present an approved and authenticated DD Form 1348–1A, SF 122, or 123 ''Transfer Order Surplus Personal Property,'' as appropriate, for specific property. The accountable officer or authorized individual(s) listed in the previously provided authentication letter must sign the DD Form 1348–1A, SF 122, or SF 123.

(*2*) Provide designated carrier or removal agents with a copy of DD Form 1348–1A or SFs 122 or 123, as appropriate, indicating removal authority.

(*i*) DoD customers must have a hard copy of the electronically transmitted letter of authorization prior to removal, and an email response from DLA Disposition Services with verification of personnel authorized to remove property.

(*ii*) Transfer and donation customers must provide a completed letter of authorization to remove property to the DLA Disposition Services site prior to removal for verification purposes.

(B) DLA Disposition Services sites will:

(*1*) Ensure the visitor and vehicle register for each direct issue includes:

(*i*) Name of the individual receiving the property.

(*ii*) DoDAAC or AAC or physical location address.

(*iii*) Activity of the individual receiving the property.

(*2*) Ensure each customer is issued a badge when signing in.

(*3*) Ensure that DD Form 1348–1A or SF 122 or 123 is complete according to MILSTRIP and disposal requirements and is signed by the applicable accountable officer or authorized representative.

(*4*) For DoD walk-in customers, ensure a current letter is on file at the DLA Disposition Services site identifying the accountable officer and authorized individual(s) signing and approving the order.

(*5*) Fill the order.

(*6*) Provide any appropriate disclaimers or certifications of usage or disposal to the customer for signature prior to releasing the property.

(*7*) Furnish a copy of the completed shipping document to the respective accountable officer (record positions 30–35 of DD Form 1348–1A).

(*8*) If being removed by anyone other than the customer, verify that the carrier has valid documentation (a copy of DD Form 1348–1A or SFs 122 or 123, as appropriate) indicating removal authority. Arrange for completion of any disclaimers or certifications of usage or disposal with the customer, prior to releasing the property to the carrier.

(*9*) In case of doubt as to the validity of pickup representatives, DLA Disposition Services sites should contact the accountable officer who prepared the order for DoD activities, or DLA Disposition Services for activities authorized to order as DoD special programs, or the GSA regional office for other FCAs or donees.

Appendix 1 to § 273.15

DEMIL Agreement for DEMIL-Required USML Property to FCAs (DEMIL Codes C, D, E, OR F)

BILLING CODE 5001–06–P

Figure 1. DEMIL Agreement for DEMIL-Required USML Property to FCAs
(Attach to the DD Form 1348-1A, Release Document)

A COPY OF THIS AGREEMENT MUST BE COMPLETED, SIGNED, AND DATED FOR EACH INDIVIDUAL DEMIL-REQUIRED LINE ITEM REQUESTED BY AN FCA RECIPIENT AND COORDINATED WITH GSA AND THE DOD DEMILITARIZATION PROGRAM OFFICE BEFORE REMOVAL OF SUCH PROPERTY FROM A DLA DISPOSITION SERVICES SITE.
DD Form 1348-1 Release Document Number:
NSN:
Quantity:
Noun Item Description:
DEMIL Code:
DEMIL Integrity Code:
DLA Disposition Services Site Location:
Federal Civilian Agency:
Complete Address:
Telephone Number:
E-mail Address:
The recipient agrees by date and signature at the bottom of this form that, upon completion of utilization property will be returned to DLA Disposition Services for required demilitarization as prescribed by the current edition of DoD 4160.28-M, Volume 1, "Defense Demilitarization: Program Administration," on a reimbursable basis. Recipient will request disposition instructions from DLA Disposition Services with copy to the DoD DEMIL Program Office at ddpo@osd.mil. DEMIL will be accomplished based on the assigned DEMIL Code for such property. All transfers of DEMIL-required USML are subject to a condition that prohibits further disposition including re-transfer, re-donations, trade, barter, exchange, lease, sale, import or export without prior written approval. If the recipient receives approval for further disposition of USML property from the GSA, in coordination with the DoD DEMIL Program Office, the DEMIL requirement will be perpetuated on the appropriate documentation.
For additional information relating to export/import, recipients may contact the DoD DEMIL Program Office for assistance (see https://www.demil.osd.mil/). Once the approval has been received, the recipient further acknowledges and agrees that before any export or re-export of this property is attempted, they must contact the Directorate of Defense Trade Controls, Department of State (see http://www.pmddtc.state.gov/) to obtain the necessary export licensing approval or authorization.

Typed Name and Title of Accountable Official
Signature Date

Appendix 2 to § 273.15

DEMIL Agreement for DEMIL-Required USML Property to Special Programs (DEMIL Codes C, D, E, or F)

Figure 2. DEMIL Agreement for DEMIL-Required USML Property to Special Programs
(Attach to the DD Form 1348-1A, Release Document)

A COPY OF THIS AGREEMENT SHALL BE COMPLETED, SIGNED, AND DATED FOR EACH INDIVIDUAL DEMIL-REQUIRED LINE ITEM REQUESTED BY AN APPROVED SPECIAL PROGRAM RECIPIENT AND COORDINATED WITH THE DOD DEMILITARIZATION PROGRAM OFFICE BEFORE REMOVAL OF SUCH PROPERTY FROM A DLA DISPOSITION SERVICES SITE.
DD Form 1348-1 Release Document Number:
NSN:
Quantity:
Noun Item Description:
DEMIL Code:
DLA Disposition Services Site Location:
Federal Civilian Agency:
Complete Address:
Telephone Number:
E-mail Address:
The recipient agrees by date and signature at the bottom of this form that, upon completion of utilization property will be returned to DLA Disposition Services for required demilitarization as prescribed by the current edition of DoD 4160.28-M, Volume 1, "Defense Demilitarization: Program Administration," on a reimbursable basis. Recipient shall request disposition instructions from DLA Disposition Services with copy to the DoD DEMIL Program Office. DEMIL will be accomplished based on the assigned DEMIL Code for such property.

Figure 2. DEMIL Agreement for DEMIL-Required USML Property to Special Programs, Continued

Recipient shall request disposition instructions from DLA Disposition Services with copy to the DoD DEMIL Program Office at ddpo@osd.mil. DEMIL will be accomplished based on the assigned DEMIL Code for such property.

All transfers of DEMIL-required USML are subject to a condition that prohibits further disposition including re-transfer, re-donations, trade, barter, exchange, lease, sale, import or export without prior written approval. If the recipient receives approval for further disposition of USML property from the Special Program, in coordination with the DoD DEMIL Program Office, the DEMIL requirement will be perpetuated on the appropriate documentation.

For additional information relating to export/import, recipients may contact the DoD DEMIL Program Office for assistance (see https://www.demil.osd.mil/).

Once the approval has been received, the recipient further acknowledges and agrees that before any export or re-export of this property is attempted, they must contact the Directorate of Defense Trade Controls, Department of State (see http://www.pmddtc.state.gov/) to obtain any necessary export licensing approval or authorization.

_____

Typed Name and Title of Accountable Official

_____

Signature Date

Appendix 3 to § 273.15

Notification for CCL and Non-DEMIL-Required USML Property to FCAS (DEMIL Codes B and Q)

Figure 3. Notification for CCL and Non-DEMIL-Required USML Property to FCAs
(Attach to the DD Form 1348-1A, Release Document)

A COPY OF THIS AGREEMENT IS TO BE COMPLETED, SIGNED, AND DATED FOR EACH INDIVIDUAL CCL AND NON-DEMIL-REQUIRED USML LINE ITEM REQUESTED BY AN APPROVED FCA BEFORE THE REMOVAL OF SUCH PROPERTY FROM A DLA DISPOSITION SERVICES SITE.

DD Form 1348-1 Release Document Number: _____
NSN: _____
Quantity: _____
Noun Item Description: _____
DEMIL Code: _____
DLA Disposition Services Site Location: _____
Federal Civilian Agency: _____
Complete Address: _____
Telephone Number: _____
E-mail Address: _____

Recipient is notified that the use, disposition, import, export, and re-export of Commerce Control List (CCL) or non-DEMIL-required USML property is subject to provisions of DoD Instruction 2030.08, "Implementation of Trade Security Controls (TSC) for Transfers of DoD U.S. Munitions List (USML) and CCL Personal Property to Parties Outside of DoD." CCL or non-DEMIL-required USML personal property released to parties outside DoD control are subject to applicable U.S. laws and regulations, including the Arms Export Control Act (parts 2778 et seq. of Title 22, U.S.C.) and the Export Administration Act of l979 (parts 1701 et seq of Title 50, U.S.C.); International Traffic in Arms Regulations (parts 120 et seq. of Title 22 CFR); Export Administration Regulations (parts 730-799 of Title 15, CFR), and the Espionage Act (parts 793 et seq. of Title 18 U.S.C.), which, among other things, prohibits:

- The making of false statements and concealment of any material information regarding the use or disposition, import, export, or re-export of the property; and
- Any use or disposition, import, export, or re-export of the property that is not authorized in accordance with the provisions of the cited laws and regulations.

Figure 3. Notification for CCL and Non-DEMIL-Required USML Property to Special ProgramsFCAs, Continued

For additional information relating to export/import, recipients may contact the DoD DEMIL Program Office for assistance (http://www.demil.osd.mil/).

Once the approval has been received, the recipient further acknowledges and agrees that before any export or re-export of this property is attempted, they must contact the Directorate of Defense Trade Controls, Department of State (http://www.pmddtc.state.gov/), or the Bureau of Industry and Security at the Department of Commerce (http://www.bis.doc.gov/) to obtain the necessary export licensing authorization.

_____

Typed Name and Title of Accountable Official

_____ _____

Signature Date

Appendix 4 to § 273.15

Notification for CCL and Non-DEMIL-Required USML Property to Special Programs (DEMIL Codes B and Q)

Figure 4. Notification for CCL and Non-DEMIL-Required USML Property to Special Programs
(Attach to the DD Form 1348-1A, Release Document)

A COPY OF THIS AGREEMENT IS TO BE COMPLETED, SIGNED, AND DATED FOR EACH INDIVIDUAL CCL AND NON-DEMIL-REQUIRED USML LINE ITEM REQUESTED BY AN APPROVED SPECIAL PROGRAM BEFORE THE REMOVAL OF SUCH PROPERTY FROM A DLA DISPOSITION SERVICES SITE.

DD Form 1348-1 Release Document Number: _____
NSN: _____
Quantity: _____
Noun Item Description: _____
DEMIL Code: _____
DLA Disposition Services Site Location:_____
Special Program Recipient: _____
Complete Address: _____
Telephone Number: _____
E-mail Address: _____

Recipient is notified that the use, disposition, import, export, and re-export of Commerce Control List (CCL) or non-DEMIL-required USML property is subject to provisions of DoD Directive 2030.8, "Implementation of Trade Security Controls (TSC) for Transfers of DoD U.S. Munitions List (USML) and CCL Personal Property to Parties Outside DoD Control." CCL or non-DEMIL-required USML personal property released to parties outside DoD control are subject to applicable U.S. laws and regulations, including the Arms Export Control Act (parts 2778 et seq. of Title 22, U.S.C.) and the Export Administration Act of 1979 (parts 1701 et seq. of Title 50, U.S.C.); International Traffic in Arms Regulations (parts 120 et seq. of Title 22, CFR); Export Administration Regulations (parts 730-799 of Title 15, CFR), and the Espionage Act (parts 793 et seq. of Title 18, U.S.C.), which, among other things, prohibits:

- The making of false statements and concealment of any material information regarding the use or disposition, import, export, or re-export of the property; and

- Any use or disposition, import, export, or re-export of the property that is not authorized in accordance with the provisions of the cited laws and regulations.

The recipient acknowledges that all subsequent dispositions of the items are prohibited without prior written approval of the program manager. The program manager will coordinate with the DoD Demilitarization Office or TSC Program Office, for guidance, as appropriate.

Figure 4. Notification for CCL and Non-DEMIL-Required USML Property to Special Programs, Continued

For additional information relating to export/import, recipients may contact the DoD DEMIL Program Office for assistance (https://www.demil.osd.mil/).

Once the approval has been received, the recipient further acknowledges and agrees that before any export or re-export of this property is attempted, they must contact the Directorate of Defense Trade Controls, Department of State (http://www.pmddtc.state.gov/) to obtain the necessary export licensing authorization.

_____

Typed Name and Title of Accountable Official

_____ _____

Signature Date

Appendix 5 to § 273.15

Customer Reconfirmation

Figure 5. Customer Reconfirmation

I understand that the shipment of Order No. _____ is not cost effective to the Department of Defense; however, the requested property is still required as mission essential.	
Signature	Date
Name (Type/Print)	Title
Activity/Unit	Grade/Rank
Phone Number	

Dated: October 22, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–27397 Filed 11–2–15; 8:45 am]

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FEDERAL REGISTER

Vol. 80 Tuesday,
No. 212 November 3, 2015

Part VI

The President

Federal Register
Vol. 80, No. 212
Tuesday, November 3, 2015

Presidential Documents

Title 3—

The President

Proclamation 9357 of October 29, 2015

Critical Infrastructure Security and Resilience Month, 2015

By the President of the United States of America

A Proclamation

Our Nation's critical infrastructure is central to our security and essential to our economy. Technology, energy, and information systems play a pivotal role in our lives today, and people continue to rely on the physical structures that surround us. From roadways and tunnels, to power grids and energy systems, to cybersecurity networks and other digital landscapes, it is crucial that we stay prepared to confront any threats to America's infrastructure. During Critical Infrastructure Security and Resilience Month, we rededicate ourselves to safeguarding our infrastructure by staying attentive, alert, and ready to respond to any threats toward our homeland and our assets.

Ensuring our country has a secure and stable infrastructure is essential to our national security efforts. Our systems and networks extend beyond the scope of government. Many are owned by private industry, and my Administration is committed to partnering with private entities, as well as State and local governments, to secure our critical infrastructure. Earlier this year, we convened some of America's top infrastructure planning experts at the White House to highlight and advance important work to improve our Nation's resilience. We also continue to collaborate with stakeholders to mitigate risks and confront threats as part of the National Infrastructure Protection Plan. Additionally, to support the Build America Investment Initiative—a Federal effort to assist communities in constructing better and more efficient infrastructure projects—we released a Federal Resource Guide for Infrastructure Planning and Design. This guide informs communities about relevant Federal resources and noteworthy case studies, and it outlines updated principles to guide infrastructure projects.

By some estimates, we are currently underinvesting in our infrastructure by hundreds of billions of dollars each year. I have called on the Congress to pass a bipartisan infrastructure plan to create jobs and make America stronger. Not only is it a threat to our national security, but failing to maintain and strengthen our infrastructure also jeopardizes our economic growth and closes doors of opportunity for all our citizens. Our people and our businesses require an advanced infrastructure—modern ports, stronger bridges, faster trains, a modern grid, and high-speed Internet—and I am committed to efforts to build one.

No challenge demands modern infrastructure more than combatting climate change—the gravest threat to future generations, particularly to communities and populations with strained resources. Drawing on current efforts, my Administration is reinforcing our infrastructure projects and making them more clean, sustainable, efficient, and resilient. Together with States, local governments, and tribal communities, we are planning new roads, transit lines, and other methods of transportation and power generation that bolster our country's resilience in the face of climate change.

We have more power at our fingertips than ever before to communicate, collaborate, and make transactions each day across the world we share. This month, let us remind ourselves of the value of our infrastructure, while recognizing the challenges of protecting it. Together, we can safeguard the advances we have made as a people by securing our critical infrastructure

and remaining vigilant in the face of any and all threats, both here at home and around the globe.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2015 as Critical Infrastructure Security and Resilience Month. I call upon the people of the United States to recognize the importance of protecting our Nation's infrastructure and to observe this month with appropriate events and training to enhance our national security and resilience.

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

[FR Doc. 2015–28216
Filed 11–2–15; 12:30 pm]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9358 of October 29, 2015

Military Family Month, 2015

By the President of the United States of America

A Proclamation

Since our country's founding, brave members of our military have stood strong as one American team, ready to defend our homeland and safeguard the values for which we stand. They represent the best our Nation has to offer, and serving alongside them are proud and loving family members—heroes on the home front. Each day, they make sacrifices for their loved ones and their country. They have answered their call of duty, and as a Nation, we must answer ours and serve them as well as they have served us. During Military Family Month, we pay tribute to and thank our military families for their service to our country, and we recognize the extraordinary ways in which they give of themselves for us all.

Our troops keep our Nation safe from threats here at home and around the world, and our journey forward is not sustained by those in uniform alone. The United States is stronger and safer thanks to the millions of military family members who, in sacrificing cherished moments with their loved ones, selflessly afford us precious time with ours. Demonstrating the highest form of patriotism and persevering in the most demanding of circumstances, some endure hard separations throughout multiple deployments. Spouses press pause on their careers or strive to balance work and family while their loved ones are away. The two million children of service members work hard to keep up their studies and make new friends, despite transferring school systems an average of 6 to 9 times. And following the homecoming ceremonies and celebrations, family and friends stand beside our veterans, encouraging and uplifting them as they face the challenges of transitioning back into civilian life.

My Administration is committed to translating our Nation's gratitude into sustainable, meaningful support. This year, we continued the work of providing our military families with tools and resources such as relocation assistance, child care, and counseling services that help families while their loved ones are serving. Additionally, through the Joining Forces initiative, First Lady Michelle Obama and Dr. Jill Biden have made tremendous strides in connecting military spouses with employment opportunities. Since Joining Forces was launched in 2011, over 850,000 veterans and military spouses have secured gainful employment thanks to the initiative. All 50 States have now responded to the First Lady and Dr. Biden's call to action to take steps to streamline ways for service members and veterans to obtain civilian credentials and licensure in their States. These collaborative efforts have dramatically lowered veteran unemployment and have helped inspire military families to continue pursuing their dreams and reaching for their highest aspirations.

America endures because of the men, women, and families who serve and sacrifice to defend our Nation and protect the ideals we hold dear. This month, and in the months to come, let us show our enduring gratitude to military families and their loved ones in uniform for contributing to our Nation's legacy as a beacon of hope and liberty. Their courage serves as a model of character and distinction, and their devotion to our country must be met with the recognition it deserves.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2015 as Military Family Month. I encourage all Americans to honor military families through private actions and public service for the tremendous contributions they make in support of our service members and our Nation.

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

[FR Doc. 2015–28246
Filed 11–2–15; 12:30 pm]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9359 of October 29, 2015

National Entrepreneurship Month, 2015

By the President of the United States of America

A Proclamation

Since our Nation's founding, our progress has been fueled by an inherent sense of purpose and ingenuity in our people. Americans have more opportunities now than ever before to carry forward this legacy—to create something, to raise capital in creative ways, and to pursue aspirations. During National Entrepreneurship Month, we revisit our roots as a country of dreamers and doers, and we celebrate and support the next generation of American entrepreneurs.

Bold ideas demand bold progress, and my Administration is committed to ensuring ours is a country that encourages and supports those willing to take risks and pioneer innovation. The Affordable Care Act is opening doors of opportunity for America's aspiring entrepreneurs, enabling them to find affordable health insurance through the marketplace and providing them the flexibility they need to steer their own journey forward. To further provide economic security for those seeking to start a business or market their invention, I have signed 18 tax cuts for small businesses since taking office. I also remain committed to net neutrality, because we do not want to lose the Internet's potential to empower innovative startups and unleash the breakthroughs of tomorrow.

In keeping with our goal of fostering economic growth through private-sector collaboration, the Federal Government is accelerating the movement of new technologies from the laboratory to the marketplace, increasing access to research awards for small businesses, making more data open to the public, and catalyzing new industry partnerships in critical fields such as advanced manufacturing and clean energy. And earlier this year, I signed an Executive Order to make the Presidential Innovation Fellows program a permanent component of the Federal Government. This program will bring entrepreneurs, executives, technologists, and other innovators to Washington and help reinvigorate how our Government serves our citizenry.

My Administration is also continuing to expand access to capital, connect mentors, cut red tape, and accelerate innovation through the Startup America initiative. This summer, we hosted the first-ever White House Demo Day, where startup founders of many backgrounds and from many corners of our country came together to showcase their innovations and where we announced major new commitments from investors, companies, universities, and cities to promote inclusive entrepreneurship. And because we understand that jobs in technology that go unfilled are missed opportunities for American workers to find better, higher-earning jobs and for businesses to recruit the talent needed to start and expand in the United States, we launched TechHire. This initiative works with communities and employers on innovative training and placement programs to connect trained workers with entrepreneurial opportunities and well-paying jobs. As we work to secure America's status as the best place on the planet to generate sweeping innovation, we must continue to make it easier for startup hotbeds to emerge across our Nation and for those underrepresented in entrepreneurship to contribute their individual ideas and talents to our collective success.

Fostering a spirit of innovation is important not just for entrepreneurs in the United States, but for consumers and people hoping to start their own businesses around the world. Entrepreneurship builds stronger and more secure communities, empowering people of every gender, race, and background. That is why, this summer, we hosted the 6th annual Global Entrepreneurship Summit in Kenya, a gathering that brought attention to the extraordinary potential and dynamism of Africa, and where we expanded our commitment to supporting entrepreneurs—including young people and women. To spur greater economic growth and set higher standards for trade and investment across the globe, we continue to work toward ensuring the success of the Trans-Pacific Partnership, a trade pact that opens doors to new markets for American entrepreneurs and allows them to compete in more economies.

I have also taken action to fix our Nation's broken immigration system, including measures to encourage more immigrant entrepreneurs to come to America, create jobs, contribute to our economy, and use their talents to help drive our country's progress. The White House Task Force on New Americans is working to highlight the contributions of immigrants and refugees who start a business, and because immigrants are more likely than non-immigrants to start a business, the Task Force is engaging communities to provide these new American entrepreneurs with the tools they need to grow and expand their enterprises.

Ensuring our economy works better for everyone means enabling all our people to make of their lives what they will. By supporting entrepreneurs, we can help ensure our daughters and sons are able to do whatever they set out to accomplish and achieve their highest aspirations. As we celebrate National Entrepreneurship Month and Global Entrepreneurship Week, let us recommit to upholding our founding promise: that no matter who you are or where you come from, with talent, hard work, and dedication, you can make it if you try.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2015 as National Entrepreneurship Month. I call upon all Americans to commemorate this month with appropriate programs and activities, and to celebrate November 17, 2015, as National Entrepreneurs' Day.

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

[FR Doc. 2015–28251
Filed 11–2–15; 2:00 pm]
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Federal Register

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Tuesday, November 3, 2015

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FEDERAL REGISTER PAGES AND DATE, NOVEMBER

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List November 2, 2015

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