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Contents

Federal Register

Vol. 81, No. 19

Friday, January 29, 2016

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

22 CFR
62.....4945

26 CFR
Proposed Rules:
1.....4976

40 CFR
52 (2 documents) 4957, 4959
271.....4961
272.....4961
Proposed Rules:
52.....4987
98.....4987
271.....5006
272.....5006

41 CFR
Proposed Rules:
301-51.....5007
301-70.....5007

47 CFR
15.....4969
27.....4969
73.....4969
74.....4969

Rules and Regulations

Federal Register
Vol. 81, No. 19
Friday, January 29, 2016

DEPARTMENT OF STATE

22 CFR Part 62

[Public Notice: 9421]

RIN 1400–AC60

Exchange Visitor Program—Teachers

AGENCY: U.S. Department of State.

ACTION: Final rule.

SUMMARY: This rule makes final the Department's proposed rule published on May 2, 2013. The Department, with this rule, amends its existing regulations governing the Teacher category of the Exchange Visitor Program. This final rule permits program participation of teachers teaching full-time at accredited public or private primary and secondary schools (K–12), including pre-kindergarten teachers in ''language immersion'' programs offered as regular courses of study by accredited primary schools; requires exchange teachers to have two years of full-time teaching experience; clarifies that the duration of program participation by exchange teachers is three years, with an extension permitted for one or two additional years of participation based on school need and exchange teacher performance during the exchange; permits participation by otherwise qualified teachers who are not currently working, but who are returning to teaching after successfully pursuing an advanced degree beyond the equivalent of a U.S. bachelor's degree; introduces a required cross-cultural activity component; requires program sponsors to disclose fees and costs to foreign teachers at the time of both recruitment and selection into the program; and implements a requirement that exchange teachers not be eligible for repeat participation unless they reside outside the United States for two years following their teacher exchange program. In amending the Teacher category regulations, the Department: Reforms the teacher exchange program; strengthens provisions designed to protect the health, safety, and welfare of exchange teachers; and reinforces the program's prestige as a world-class U.S. public diplomacy initiative. The rule applies to all J-Nonimmigrant exchange teachers, except when the teacher's program is covered by a separate agreement between the United States and the relevant foreign government as permitted under Department regulations.

DATES: This rule is effective on February 29, 2016.

ADDRESSES: Persons with access to the Internet also may view this rule by going to the regulations.gov Web site at: *http://www.regulations.gov/index.cfm.* For further information, contact Robin J. Lerner, Deputy Assistant Secretary for Private Sector Exchange, Bureau of Educational and Cultural Affairs, U.S. Department of State, SA–5, Floor 5, 2200 C Street NW., Washington, DC 20522–0505; fax: (202) 632–2701; email: *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION: The Exchange Visitor Program (of which the Teacher category is one of fifteen categories of program types) is authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended, 22 U.S.C. 2451 *et seq.* (also known as the Fulbright-Hays Act and hereinafter referred to as ''the Act''), and implemented through 22 CFR part 62 (22 CFR 62.24 pertains to the Teacher category in particular). The Act's stated purpose is ''to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations, and the contributions being made toward a peaceful and more fruitful life for people throughout the world. . . .'' In the fifty years since the Act's passage, millions of foreign exchange visitors, Americans with whom they interact, and friends and families of the exchange visitors with whom they share their experiences upon returning home, have benefited from the mutual understanding and peaceful relations that can derive from such person-to-person contact. The Teacher exchange program embodies and carries forward the stated purpose and intent of the Act by benefiting teachers, students, host schools, and surrounding communities.

Educational and cultural exchanges are a cornerstone of U.S. public diplomacy and an integral component of U.S. foreign policy. The purpose of the Teacher category of the Exchange Visitor Program is to promote interchange of American and foreign teachers in public and private schools; enhance mutual understanding between the people of the United States and people of other countries; allow U.S. students who lack opportunities to travel abroad to have early and meaningful relationships with individuals from other cultures; provide visiting teachers an opportunity to expand their understanding of U.S. education, culture and society; provide U.S. teachers with a greater understanding of international teaching practices by their working alongside foreign colleagues; and create opportunities to develop lasting links between U.S. and foreign schools and communities.

These regulations govern exchange teachers who teach full-time in accredited primary and secondary public and private schools in the United States (including pre-kindergarten level ''language immersion'' programs offered as a regular course of study by accredited primary schools). Exchange teachers have the opportunity to broaden their pedagogical knowledge while in the United States and foster meaningful relationships with American citizens through their participation in U.S. schools and communities, returning home within a defined time-period to share their experiences in their own country's educational system.

It is equally important that public and private schools hosting foreign exchange teachers have the responsibility and intent to create a holistic cultural program and contemplate the overall experience that these teachers will take back to their home countries. The Department supports the hosting of exchange teachers to help U.S. students understand other cultures and comprehend global issues, as well as to promote study of foreign languages and culture. Native speakers add a vital dimension to foreign language instruction. Speaking another language

promotes understanding, conveys respect for other cultures, and strengthens the ability to engage foreign peoples and governments.

In recent years, the Department has been strengthening the regulations throughout the Exchange Visitor Program to require sponsors to ensure, among other things, that their individual exchange visitor programs are consistent with the purpose of the Act. The Teacher exchange program is not to be used to recruit and train foreign teachers for permanent employment in the United States. The amended Teacher category regulations make clear that exchange teachers are expected to work on a temporary basis at the host school. Because the Exchange Visitor Program is an educational and cultural program, sponsors must ensure that an exchange teacher's appointment at the host school is temporary, even if the teaching position is permanent.

The Department requires sponsors to ensure that exchange teachers, including pre-kindergarten ''language immersion'' teachers, are placed only in accredited primary and secondary schools. In addition, a foreign national may be admitted to the United States as a J–1 nonimmigrant in the Teacher category only for the purpose of full-time teaching as a teacher of record, not as a teacher's assistant/aide, substitute teacher, or other non-instructional position, at an accredited primary or secondary school.

Analysis of Comments

The Department published a Notice of Proposed Rulemaking with a request for comment on May 2, 2013 (RIN 1400–AC60; see 78 FR 25669). The Department received 60 comments in response to the proposed rule. Many of those commenting discussed multiple topics. Following a review of these comments, the Department has decided to adopt the proposed rule with some modifications prompted by the comments.

Program disclosures: The proposed rule required sponsors to provide prospective exchange teachers with a listing of all fees and costs associated with the exchange program at two points, first, a general listing while advertising the program, and second, a more specific listing for those teachers accepted into the program. The Department received four comments, all expressing concern that the proposed requirements for both sponsors and host schools were overly time consuming, would result in an over-abundance of paperwork, and would result in unnecessary duplication of information from host school Web sites.

The Department believes that the benefits of fee and cost transparency outweigh any possible duplication or additional activities required to gather fee and cost estimates and provide them to potential exchange visitors. When sponsors and host schools rely upon exchange visitors to conduct independent research on Web sites to locate key information about their exchange program and conditions of their host placement, these sponsors and schools cannot be sure that the information exchange visitors find through their research is accurate or comprehensive. In requiring the sponsor and host school to provide a summary of significant program components, fees, and other costs during the advertising phase and also prior to the exchange teacher's signing of his or her contract with the host school, the Department ensures that the exchange teacher has received from the program sponsor at two crucial points a basic summary (and understanding) of the main programmatic and financial obligations and responsibilities he or she undertakes by participating in an exchange. These requirements also will allow all parties involved or interested in the Exchange Visitor Program to ascertain in advance if fees and costs seem excessive or if additional costs will be charged to the teacher.

The Department is of the view that various program fees, deductions from wages, and costs charged to exchange teachers by sponsors, third parties, partners, and host schools, if not fully disclosed, could make exchange teachers vulnerable to unexpected program costs. The Department, through its regular communications with sponsors, participating exchange teachers, and host schools during the course of its formal program monitoring efforts, has been made aware of many cases where, after expenses and deductions, exchange teachers' take-home pay, contrary to what those teachers originally expected, was an insufficient amount of money on which to live in the United States or to defray the cost associated with the exchange. Moreover, because the Department works with program sponsors on an ongoing basis, it is aware that program recruitment and placement fees may vary widely depending upon the exchange teacher's country of origin. In addition, the cost of living, including housing and local transportation costs, varies in the different U.S. host communities where an exchange teacher may be placed.

This regulation will require sponsors, first, to post a general summary of fees and other costs teachers can expect to pay while they are on exchange in one visible location on their main Web sites and in their recruiting materials, in order to ensure fee and cost transparency at the time of exchange teacher recruitment. This general summary of fees and other costs at the time of recruitment must include, at a minimum, sponsor fees; placement fees; visa fees; Student and Exchange Visitor Information System (SEVIS) fees; insurance costs based on the requirements of 22 CFR 62.14; estimates (ranges) for food, housing and local transportation costs; foreign and domestic third party fees; expected work-related deductions (*e.g.,* federal and state income tax withholding, Federal Insurance Contributions Act (FICA) deductions, work related materials, required memberships); and estimates of all other fees charged for, and significant other costs related to, participation in the Teacher category of exchange. If these fees and costs vary by country, the sponsor should note this in its fee and cost listing, or list a range of costs to encompass all of the countries that sponsor serves. The Department does not require sponsors to list airline ticket costs in the general summary of fees and costs that they must post to their Web site or list in their recruitment materials.

Second, at the time the official selection letter is sent to the teacher, sponsors must themselves, or must ensure that host schools, provide, in either the teacher's contract and/or through supplemental information, each individual exchange teacher with the name, location, and a brief description of the host school; the terms and conditions of compensation (with estimated deductions from gross salary); any provisions affecting the ability of the teacher to be accompanied abroad by a spouse or dependents (including any related assistance and allowances); a summary of the significant components of the program (including a statement of the teaching requirements, related professional obligations and required cross-cultural activity component); specific information on the fees and costs that the exchange teacher will be responsible for while on exchange in that school district; anticipated housing options and cost implications; specific local transportation options between the exchange teacher's residence and the host school and their estimated costs; insurance costs for accident and illness coverage, repatriation of remains, and

medical evacuation as required by 22 CFR 62.14; estimated costs for initial personal expenses the exchange teacher may incur upon arrival in the United States prior to receiving his or her first paycheck; certification or licensure procedures and costs at the host school; administrative fees; and any placement fees. All of the information noted above must be provided to exchange teachers selected for the program before they sign their host school contract, in order to ensure that all exchange teachers fully understand the financial obligations they assume when signing the contract and agreeing to participate in an exchange program.

As set forth at 22 CFR 62.24(f)(5), unless an exchange teacher is on a program where the Department is the sponsor, he or she must be employed by and under the direct supervision and guidance of his or her host school and, where applicable, the host school district. As set forth at 22 CFR 62.24(g)(2), unless the exchange teacher is supported through government funding, through continued support from the exchange teacher's home school, or through a combination of the exchange teacher's home and host school, compensation must be paid directly by the host school(s) or host school district in which the exchange teacher is placed. For example, unless the sponsor is also the host school, a sponsor cannot receive the exchange teacher's salary from a host school or host school district and then pay it on to the exchange teacher (often with deductions for previously undisclosed fees and costs), as may be the practice currently in some teacher exchange programs.

Cross-cultural activity component: The proposed rule required completion of a mandatory annual cross-cultural activity component through which exchange teachers would be required to share aspects of their cultural heritage with their U.S. communities, including conducting international dialogue or other activities through virtual exchange or other means, with schools or students in another country, preferably their home school (as set forth in the final rule at 22 CFR 62.24(h)). The Department received 11 comments regarding the cross-cultural component aspect of the proposed rule. Many comments received were from faculty or administrators at international schools who expressed the view that a required cross-cultural activity component was unnecessary because their schools are living examples for students of international cultural exchange and that a mandated cross-cultural activity component would be an artificial intercultural activity by comparison.

The mission of the Bureau of Educational and Cultural Affairs, which oversees the Exchange Visitor Program under the Fulbright-Hays Act, is to increase mutual understanding between the people of the United States and the people of other countries through educational and cultural exchanges that support the development of peaceful relations. In keeping with this authority, the Department wishes to ensure that its visiting teachers come in contact with and convey knowledge to large numbers of U.S. students and community members. The Department is of the view that a dialogue of ideas should ensue from the Teacher exchange program and that, regardless of where in the United States a teacher is placed, a mandatory cross-cultural activity component will help students in the exchange teacher's classroom, and in the broader host school and its community, develop global awareness and interest in learning more about other countries. Moreover, not all exchange teachers participating in the program are placed in schools that already have an overall international focus.

Other comments supported mandating a cross-cultural activity component in order for communities to learn more about the unique contributions of the exchange teacher. The Department agrees that required cross-cultural activity components are valuable tools not only to engage exchange teachers in their host communities—both inside and outside of their schools—but also to inform their host communities about their cultures.

Whatever the placement setting, the sponsor, host school and exchange teacher should work together to develop creative cross-cultural activity components, whether it be in the teacher's individual classroom, within the larger host school, or in the host school district or community. One example of developing a creative cross-cultural activity for the host school district or community could be to have exchange teachers make a presentation in a public forum (*e.g.,* at a school assembly, museum, civic organization, or businesses association) where there is direct interaction with the educational or larger community and in which they could share an aspect of their home countries (*e.g.,* history, traditions, heritage, dance, art, music, economy, educational system). In addition, the Department strongly encourages sponsors who place exchange teachers in international schools to urge their exchange teachers to conduct at least one cross-cultural activity per year outside their host school in a setting where there is less direct opportunity for students or community members to engage in international learning. For example, a foreign teacher placed in a school where he or she is teaching his or her native language might give a presentation in English about a home country topic to a school in the same district that does not have an international or language immersion focus or to a community group in the area where the host school is located. Sponsors and the Department will take the exchange teacher's record of cross-cultural activities into account when considering one- or two-year extensions for exchange teachers, including those placed at schools with an international or language immersion focus.

In order to ensure meaningful accountability on the part of exchange teachers, sponsors must require exchange teachers to submit an annual report, one element of which should detail the cross-cultural activity component of their exchange program. The report does not have to be in a specific format, but must contain specific fields of information as identified in these regulations (*i.e.,* date or dates of cross-cultural activities, teacher name, program sponsor name, location, number of individuals in attendance, topic, and a general overview of the activity and its overall impact within the larger community where the school is located). Sponsors will not be required to submit copies of these reports routinely to the Department, but they must retain such reports as part of each exchange teacher's documentation for a period of three years following completion of the teacher's exchange program, as required by 22 CFR 62.10(g). Sponsors are encouraged to share with the Department, as best practices, examples of activities that exchange teachers conduct as part of their cross-cultural activity component.

Teacher eligibility: The Department received four comments on eligibility, evenly split on whether the criteria for eligibility should be changed to two years of teaching experience prior to program participation from the current requirement of three years, or whether three years should remain the requirement. It is critical to the success of this exchange program that foreign teachers have the necessary skills and teaching experience to benefit from exchange opportunities and achieve the intended goals of this professional exchange program. Exchange teachers must be able to make an immediate impact in the classroom and share some of their teaching methods with

American teachers, while learning firsthand about U.S. culture and teaching methodologies.

The Department recognizes, as some comments pointed out, that exchange teachers come to the United States from foreign countries that prepare their teachers in educational systems that are different from that of the United States, with some systems having very different time periods that it takes teacher candidates to receive a degree. The Department believes that two years of teaching experience, combined with a degree equivalent to a U.S. bachelor's degree (which may be proven by the applicant, for example, through use of a credential evaluation service), would be sufficient requirements for program participation. This teaching experience must not be as a student teacher, but as a teacher of record in a foreign school; however, the two years of experience may be non-consecutive. All U.S. states currently require their teachers to have a bachelor's degree, and while the Department recognizes differences in teacher education systems around the world and, therefore, does not require its foreign teachers to have a bachelor's degree, it is of the view that requiring foreign teachers to have the equivalent of a bachelor's degree from their own educational system will ensure that they are considered equally qualified with U.S. teachers in host schools across the United States.

A number of comments made the point that the Department should permit in the program teachers who are not currently teaching but have recent teaching experience. The Teacher exchange program is not an employment program, but an educational exchange experience that has a reciprocal element as one of its goals. In the Teacher exchange category, currently working teachers bring to the program opportunities to link their home and host schools and communities through projects and other contributions to mutual understanding. It is anticipated that the exchange experience will give exchange teachers the opportunity to share their experiences with their home school students through virtual linkages and when they return home.

Other comments expressed concern that by requiring teachers to be working at the time of application, the program would exclude potentially highly qualified candidates who have the requisite teaching experience, but have not been working because they have been pursuing an advanced degree. The Department agrees and wishes to facilitate the exchange of teachers who have continued their education beyond a degree equivalent to a U.S. bachelor's degree. The Department agrees that an international teaching experience would be a valuable additional educational benefit to teachers completing advanced degrees. For this reason, this final rule makes one exception to the requirement that applicants must be working as teachers at the time of application. Applicants who are not currently working may participate in the program if they: (i) Have at least a degree equivalent to a U.S. bachelor's degree, (ii) have two years of teaching experience within the past eight years, and (iii) have successfully completed an advanced degree beyond a U.S. bachelor's degree-equivalent within one year of the date upon which their program application is submitted, even if they are not currently teaching. The advanced degree must be in the subject field (or a closely related one) that the exchange teacher proposes to teach while in the United States, or in the field of education. In making this exception, the Department acknowledges that potential exchange teachers might wish to complete an advanced degree and follow-up this degree by taking the opportunity to teach abroad for a period of time soon thereafter, before they continue their teaching careers in their home countries. Sponsors must require teachers who are not currently working, but are participating in the program by virtue of having recently completed an advanced degree, to locate and cooperate with a school, preferably in their home country and at their teaching level, in order to conduct the required international dialogue or virtual aspect of the cross-cultural activity component while on exchange. Sponsors must require candidates for the program, before they submit their application to a sponsor, to take the additional steps necessary to make arrangements with a suitable school outside the United States with which they could, if accepted to the program, complete the required cultural activity component.

Pre-kindergarten teacher eligibility: The Department received 37 comments about whether pre-kindergarten teachers should be permitted to participate in the Teacher category of the Exchange Visitor Program. All comments noted that beginning language instruction with a native speaker in early childhood would be beneficial for U.S. children. Those submitting comments also noted that preventing pre-kindergarten language teachers from coming to the United States on a teacher exchange would reduce the overall effectiveness of ''language immersion'' programs, whose faculty could benefit from hosting native speakers. In response to these comments, the Department will permit teachers, under the final rule, to be placed as instructors in pre-kindergarten ''language immersion'' programs offered as regular courses of study by accredited primary schools. Such exchange teachers must teach a full-time schedule of at least 32 hours at their host school or at accredited schools in the same school district, even if not all of their instruction involves teaching at the pre-kindergarten level. If exchange teachers are placed in private schools where they are not under the governing authority of a school district, then they must teach a full-time schedule of at least 32 hours, any schools in which they teach must be located no more than 25 miles from their main host school, and the sponsor must ensure that reasonable and effective modes of transportation to such additional sites of activity exist. Pre-kindergarten exchange teachers may not participate in exchanges at institutions whose primary purpose is daycare, nor may they teach in supplemental educational programs offered at, but not included as, a regular course of study by an accredited school.

Program dates: The Department received three comments on its proposed new requirement (set forth in the final rule at 22 CFR 62.24(f)(2)) that program dates should coincide with the U.S. academic year cycle (July 1–June 30). Some comments pointed out that school systems in other parts of the world follow different calendar cycles and expressed the view that the Teacher exchange program should accommodate this. The Department notes that exchange teachers will be teaching in U.S. schools, so it is generally necessary that they comply with the U.S. academic year in order to ensure a smooth transition as faculty arrive and depart. The Department understands that there may be instances where a teacher on a different academic calendar may need to conduct an exchange on a different year-cycle. In such a situation, sponsors must notify and receive approval from the Department if a host school has an exchange teacher beginning an exchange after the start of the U.S. academic year and must ensure that the host school includes such alternate dates in its contract with the exchange teacher. Host schools should give the same orientation programming and assistance to the incoming exchange teacher that an exchange teacher arriving at the normal time in the school year would ordinarily receive. When sponsors notify the Department that the exchange is occurring on a different

program cycle and receive the Department's approval, the Department has the opportunity to monitor these exchanges to ensure that the sponsor and host school are providing the necessary support to an exchange teacher who enters a new school with a potentially more difficult adjustment period.

Program extensions: The Department received 29 comments on the issue of program extensions, with a majority supporting either program extensions of up to two years beyond the proposed exchange period of three years or simply a five-year exchange period. A former exchange teacher commented that international teachers who experience the United States for periods longer than three years can become ''instructional leaders'' in their host schools. Others voiced the perspective that a three-year program limit may mean that some students have less continuity in receiving instruction from a highly qualified international teacher.

The Department believes that a program duration of three years is most consistent with the goals and mission of the Teacher exchange, namely to encourage exchange teachers to learn new skills and perspectives while teaching in the United States, and then return to their home countries and foster ties between schools in their home countries and their host schools in the United States. However, the Department recognizes that program extensions beyond the three-year duration may be necessary or desirable where the exchange teacher has carried out his or her program requirements in a particularly effective way at the U.S. host school. Accordingly, sponsors may apply to the Department on behalf of a host school to extend an exchange teacher's program duration by one or two additional years. In permitting extensions of up to two years, the Department will not authorize exchange teachers to extend their stay by fractions of academic years. The Department believes this would result in considerable administrative complexity to both home and host schools attempting to make international teacher exchanges possible. In addition, having exchange teachers extend for fractions of years might be disruptive to students. Extension requests must contain documentation showing that the school has a particular need for the exchange teacher to remain, that the exchange teacher can be recommended for extension based on professional performance at the host school, and that the exchange teacher has fulfilled all aspects of the cross-cultural activity component. Instructions for requesting a program extension may be found on the Department's J-Visa Web site (*www.jvisa.gov*) under the ''Participants—Adjustments and Extensions'' link at *http://j1visa.state.gov/participants/current/adjustments-and-extensions.* Sponsors must send extension requests to the Department for its approval at least three months prior to the beginning date of the requested extension.

Teacher compensation: The Department did not receive comments on the issue of compensation. Accordingly, as proposed, the Department has amended the regulations at 22 CFR 62.24(g)(2) to make clear that exchange teachers are to be compensated directly by the schools or school districts in which they are placed, unless they are supported by foreign government funding, through continued support from their home schools, or through a combination of home and host school support. Exchange teachers must be under the direct supervision and guidance of host schools and host school districts. SEVIS records should reflect the funding situation for each exchange teacher. Teaching positions, including duties, responsibilities, hours of employment, and compensation, must be consistent with similarly-situated American teachers in the school or school district where an exchange teacher is assigned to teach. Sponsors should ensure that exchange teachers receive all information about teaching in a particular school or school district that is available to similarly-situated U.S. teachers.

Repeat participation: Commenters generally supported a clause making clear that exchange teachers are eligible for repeat participation provided they reside outside the United States for two years following their teacher exchange program. Several commenters noted that inserting this provision should go hand-in-hand with extending the possible exchange duration to five years. The regulations have been amended to permit exchange teachers who have successfully completed their teacher exchange programs, either for a period of three years or, if extended, for four or five years, to participate again as exchange teachers in the Exchange Visitor Program. To be eligible to repeat the program, exchange teachers must have resided outside the United States for at least two years following completion of their program and must continue to meet all other eligibility requirements for this category.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department is of the opinion that the Exchange Visitor Program is a foreign affairs function of the U.S. Government, and that rules implementing this function are exempt from section 553 (Rulemaking) and section 554 (Adjudications) of the Administrative Procedure Act (APA). U.S. government policy and longstanding practice have been for the Department to oversee foreign nationals who come to the United States as participants in exchange visitor programs, either directly or through private sector program sponsors or grantee organizations. When problems arise, the U.S. Government is often held accountable by foreign governments for the treatment of their nationals, regardless of who is responsible for the problems. The purpose of this rule is to protect the health, safety and welfare of foreign nationals entering the United States (often on programs funded by the U.S. Government) for a finite period of time and with a view that they will return to their countries of nationality upon completion of their programs. The Department is of the opinion that failure to protect the health, safety and welfare of these foreign nationals would have direct and substantial adverse effects on the foreign affairs of the United States. Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department nevertheless published a proposed rule on May 2, 2013, with a 60-day provision for public comment and without prejudice to its determination that the Exchange Visitor Program is a foreign affairs function.

Small Business Regulatory Enforcement Fairness Act of 1996

This regulation is not a major rule as defined by 5 U.S.C. 804 for the purposes of Congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801–808). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based companies in domestic and export markets.

Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million in any

year; and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department has determined that this regulation will not have tribal implications; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Regulatory Flexibility Act/Executive Order 13272: Small Business Impacts

Since the Department is of the opinion that this rule is exempt from section 553 (Rulemaking) and section 554 (Adjudications) of the APA, the Department is also of the opinion that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). However, to better inform the public as to the costs and burdens of this rule, the Department notes that this regulation will affect the operations of 54 sponsors designated by the Department to conduct programs in the Teacher category of the Exchange Visitor Program. Currently, approximately 1,200 new exchange teachers may begin exchange programs annually with program durations of up to three years, and it is expected that this number will stay relatively constant; an estimated total of around 2,300 exchange teachers may continue their programs in years two and three as expected (estimated at 1,150 exchange teachers per year), for a total number of 3,500 in their first three years as an exchange visitor. An estimated 500 exchange teachers may be on an extension of their exchange in the U.S. beyond the initial three years (an estimated 250 in extension status in years four and five), so that a total of approximately 4,000 active exchange teachers may be in the United States annually.

Numbers of Small Businesses

Of the 54 currently-designated sponsors in the Teacher category of the Exchange Visitor Program, 16 are corporate, academic and tax-exempt program sponsors with annual revenues of less than $7 million. These 16 small sponsors accounted for around 800, or approximately 32 percent, of the total active 2,500 participants in the Teacher category in calendar year 2014 and 384 of the new exchange teachers beginning the program. The Department estimates that exchange teachers associated with small sponsors may account for as many as 1,280 of the 4,000 active participants in 2016 and beyond, once the option to extend is offered to exchange teachers, calculated as follows: 1,200 multiplied by three years for new exchange teachers minus 100 teachers who are estimated not to continue on to three years as expected, plus an estimated total of 500 exchange teachers on extension (250 in extension status per year in years four and five) equals 4,000 total exchange teachers. Multiplying this total by 0.32 equals an expected 1,280 exchange teachers affiliated with sponsors that are small businesses.

Teacher Selection

Sponsors already are required to screen applicants for eligibility (including the two-year home stay requirement through SEVIS); verify that applicants are currently working as teachers; verify their English language proficiency; and confirm their receipt of, at a minimum, a degree equivalent to a U.S. bachelor's degree. Department collections already include 1.5 hours for selection (screening, verifying language proficiency, and confirming degree). Sponsors also must check prospective host school attestations that their exchange teacher appointments are temporary, that the teacher's salary will fall within the range paid to U.S. teachers, and that the exchange teacher will satisfy the teaching eligibility standards of the U.S. state in which he or she will teach. These requirements will add 0.5 hours multiplied by $31.50 weighted wage for sponsors multiplied by 384 placement schools, or an additional total of $6,048 annually. The amount of $31.50 is based upon average weekly earnings for middle-range employees in the educational non-profit sector according to the Bureau of Labor Statistics, or around $24.20 per hour and benefits of around 30 percent of salary. In addition, host schools will have a 0.5 hour burden to write these attestations, which totals $8,279, based on the average weighted wage of $43.12 for middle-range U.S. public school administrators, according to the Bureau of Labor Statistics and the national salary comparison Web site Payscale (*www.payscale.com*) (0.5 hours multiplied by $43.12. weighted wage multiplied by 384 placement schools).

Under the amended regulation, sponsors must verify that exchange teachers qualifying with an advanced degree have earned such a degree within the past 12 months in education or in the subject field (or closely related subject field) that the applicant would teach on exchange. They also will need to verify that the exchange teacher's application package includes a letter from the head of a school in another country, preferably the teacher's home country, which states that school's willingness to work with the exchange teacher on the cross-cultural component of the exchange. These items are not expected to add greatly to a sponsor's screening responsibilities. Sponsors would already regularly screen for the teacher's academic, linguistic, and other credentials; this added screening is simply for a higher level of academic credential and verification that the cross-cultural component letter has been submitted for the applicant.

As set forth at 22 CFR 62.24(f)(1), sponsors must ensure that Forms DS–2019 are not issued until potential exchange teachers have received and accepted written offers of full-time teaching positions from the accredited primary (including pre-kindergarten level) or secondary schools in which they will teach. It is estimated that host schools and sponsors associated with the programs of small sponsors will each spend 30 minutes either writing or reviewing such offer letters. For sponsors, the Department estimates an aggregate burden of $6,048 (384 new teachers multiplied by 0.5 hours multiplied by $31.50 per hour weighted wage). This is not a new cost. For host schools, the Department estimates an aggregate burden of $8,279 (384 new teachers multiplied by $43.12 weighted wage of the average U.S. public school administrator multiplied by 0.5 hours).

Program Extension

In regard to program extensions, as set forth at 22 CFR 62.24(k), sponsors must review host school extension letters and supporting materials, send extension applications they support to the Department for review, and notify host schools regarding the status of their extension requests. The Department estimates that these additional collection requirements will cost $2,520, one hour burden multiplied by the hourly weighted wage of $31.50 for an estimated 250 extending exchange teachers; or $2,520 for the 32 percent of 250 yearly extending exchange teachers or 80 exchange teachers, who are likely to be affiliated with small sponsor organizations. It is estimated that the hour burden to host schools affiliated with small sponsors to submit letters for teachers extending to a fourth or fifth year is $3,450 (80 exchange teachers multiplied by $43.12 weighted wage for a school administrator multiplied by one hour). In addition, small sponsors may incur an estimated $400 per year associated with keeping records for

extension requests (80 extending teachers per year multiplied by $5), or a total of $1,200 for 80 extending teachers multiplied by $5 multiplied by three years for the entire duration of such extension request recordkeeping. The $5 per record cost is based on estimates provided by several private sector records storage companies at an average of $20 per cubic foot box divided by an estimated four teacher cross-cultural project records per box, which includes room for potential storage of larger items teachers may submit to document their exchange experience, or to cover the cost of electronic file archival storage.

Program Disclosure

22 CFR 62.24(g) requires sponsors to disclose fees and costs to exchange teachers at the time of their recruitment, selection into the program, and signing of their contracts with host schools. Department collections already include 0.5 burden hours for program disclosure by sponsors. The Department estimates total requirements in this area annually will cost $12,096 (384 new exchange teachers associated with small sponsors multiplied by $31.50 weighted wage multiplied by a total of one hour), or new costs of $6,048 (384 new exchange teachers associated with small sponsors multiplied by $31.50 weighted wage multiplied by a total of 0.5 hours).

Cross-Cultural Activity Component and Related Annual Report

The final rule at 22 CFR 62.24(h) requires sponsors to assist exchange teachers with their cross-cultural activity components and to collect exchange teachers' annual reports detailing their fulfillment of the required cross-cultural activity components. The Department estimates that this assistance and the collection of these reports annually will cost $40,320, or one burden hour at $31.50 weighted hourly wage multiplied by 1,280 teachers affiliated with small sponsors (32 percent of 4,000) multiplied by one hour, or new costs of $20,160, or 0.5 burden hours at $31.50 weighted hourly wage multiplied by 1,280 exchange teachers affiliated with small sponsors.

In addition, small sponsor cataloguing and storing of annual reports with cross-cultural activity components would cost small sponsors $11,200 annually (7,000 reports requiring storage multiplied by 0.32 multiplied by $5 per report). The $5 annual cost is based upon conservative private sector estimates of onsite record storage in the office environment per cubic foot of records. The Department estimates that each annual report, with paper and other addenda, could take up to one-quarter cubic feet of space.

Summary: Collectively, this regulation will impose new costs of no more than $47,176 to the 16 small program sponsors. The additional cost of this regulation divided by the total number of exchange teachers associated with small business (1,280) is $37. In 2014, the 16 small sponsors ranged in the number of exchange teachers they sponsored annually as follows: Six of the 16 small businesses brought in no more than seven exchange teachers for the year 2014, which meant a new burden cost of $259. For these businesses, annual revenue averaged around seven million dollars, and this amount was far less than one-half of one percent of their revenues. Six small businesses brought in between 12 to 50 exchange teachers annually at a maximum cost of $1,850; one small business sponsored 133 exchange teachers, which computes to a cost of $4,921; and two sponsored around 200 teachers, which computes to a cost of around $7,400. For these businesses, annual revenue ranged from $695,000 to six million dollars, and was in all cases, less than 1.5 percent of their revenue. For the four small businesses that recruited the largest number of new exchange teachers (as many as 282 exchange teachers) in 2014, the cost of this regulation is estimated to be no greater than $10,434. For these businesses, annual revenues ranged from five to seven million dollars, and the new regulatory cost was less than one percent of their revenues. The Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. The total cost burden to host schools affiliated with small businesses is $20,008 or around $16 per school ($20,008 divided by 1,280 host schools).

Executive Orders 12866 and 13563

The Department is of the opinion that the Exchange Visitor Program is a foreign affairs function of the U.S. Government, and that rules governing the conduct of this function are exempt from the requirements of Executive Orders 12866 and 13563. The Department has nevertheless reviewed these regulations to ensure their consistency with the regulatory philosophy and principles set forth in those Executive Orders and submitted the rule to the Office of Management and Budget's Office of Information and Regulatory Affairs. The regulations governing the Teacher category of the Exchange Visitor Program were last amended on March 19, 1993.

First, the regulations set forth in this final rule include a requirement for sponsors to provide full transparency on all fees and costs associated with teacher exchanges. The Department believes that requiring sponsors to provide foreign teachers at the time of recruitment with a comprehensive summary of total program fees and costs would greatly enhance transparency and better ensure that exchange teachers understand the financial obligations they assume when choosing to participate in the Exchange Visitor Program. The Department believes that sponsors already prepare such comprehensive summaries as a business practice. The cost of this requirement will come from adding a summary to the existing sponsor application and Web site and disseminating this fee and cost summary to the individual exchange teacher at the time of selection into the program, and is estimated at one hour, or 0.5 additional burden hours, for an estimated 4,000 sponsor collections from host schools to disclose fee and cost information multiplied by $31.50 sponsor weighted wage, or $126,000 divided by two, or a $63,000 new cost.

Second, both exchange teachers and sponsors will accrue costs from the application process. Foreign teacher applicants who are chosen for the Teacher program must demonstrate that they meet the eligibility and selection requirements set forth in 22 CFR 62.24(d)–(e), including demonstrating their qualifications for teaching at either the primary, including pre-kindergarten, or secondary levels in schools in their home country; that they are working as a teacher in their home country at the time of application; and that they have at least two years of full-time teaching experience. They must show that they have, at a minimum, a degree equivalent to a U.S. bachelor's degree in either education or the academic subject field in which they plan to teach. They also must demonstrate that they have the requisite English language proficiency, provide references to their good character, and ensure that they meet the teaching requirements of the U.S. state in which they are placed, under the requirements of 22 CFR 62.24(d)–(e). It is anticipated that it will take 1,200 new exchange teachers six hours for a total of 7,200 hours to document their eligibility at $26.26 per hour weighted wage for a total cost of $189,072. The figure of $26.26 weighted wage per hour for exchange teachers approximates, according to the Bureau of Labor Statistics and the private sector Teacher Portal (a Web site summarizing teacher salaries nationwide at

www.teacherportal.com), the average teacher salary in the past academic year for teachers having under ten years of experience (the Exchange Visitor Program's main applicants) plus benefits of 30 percent of salary.

Sponsors must screen exchange teachers before accepting them for the program and placing them in a suitable host school. Sponsors, therefore, must verify the educational and other qualifications of each foreign teacher applicant to determine whether he or she satisfies all selection criteria; review references for each foreign teacher attesting to that teacher's good reputation, character and teaching skills; ensure that each selected foreign teacher possesses sufficient proficiency in the English language to function in American classrooms as well as on a day-to-day basis; check, if applicable, that a home school letter stating the school's willingness to work with the exchange teacher on a cross-cultural component has been submitted; check that host schools appoint exchange teachers to temporary positions and that these teachers' salaries fall within the range paid to U.S. teachers; and verify that each exchange teacher meets the requirements of the state in which he or she will teach. It is estimated that 54 sponsors will need 2 hours, an increase of 0.5 hours, to review 1,200 successful exchange teacher applications at $31.50 weighted wage for a total cost of $75,600 (and total new costs of $18,900).

Third, an exchange teacher who qualifies for the program by virtue of having completed an advanced degree in education or in an academic subject matter that he or she intends to teach or that is directly related to his or her teaching subject field (see 22 CFR 62.24(d)(1)(ii)) also must provide a letter from the head of a school (or another individual in an appropriate position of authority to speak for the school within the foreign country's school system) in another country, preferably that exchange teacher's home country, which states that school's willingness to work with the exchange teacher on the cross-cultural component. It will take an estimated 50 exchange teachers two hours to organize receipt of such a letter within their home country, to include a translation if not in English, and provide the letter as part of their application package, at $26.26 weighted wage multiplied by 50 multiplied by two burden hours, for a total of $2,626.

Fourth, sponsors must ensure that Forms DS–2019 are not issued until potential exchange teachers have received and accepted written offers of full-time teaching positions from the accredited primary (including pre-kindergarten level) or secondary schools in which they will teach. This is not a new cost for sponsors. Sponsors will need to collect written offers of each exchange teacher's fulltime teaching position from the placement schools, and these placement schools will need to provide the written offer letters, estimated at a 0.5 hour burden. Furthermore, host schools will have an additional 0.5 hour burden to attest that exchange teacher appointments to positions within accredited primary or secondary schools are temporary, even if the teaching positions are permanent, and do not lead to tenure; and that these positions have duties, responsibilities, hours of employment and compensation commensurate with those of similarly-situated U.S. teachers in the school district or host school where that exchange teacher is assigned to teach. The cost to host schools is estimated at $51,774 annually ($43.12 weighted wage for a middle level school administrator multiplied by one hour multiplied by 1,200 schools) and the cost to sponsors at $18,900 ($31.50 weighted wage multiplied by 0.5 hours multiplied by 1,200 new exchange teachers).

In addition, it is estimated that host schools, numbering around 250, that wish to extend their exchange teacher's program into the fourth or fifth year, will need one hour to fulfill extension requirements, estimated at $43.12 multiplied by 250, for a total cost of $10,780. Sponsors will need to review these applications, estimated to take one hour at a weighted wage of $31.50 multiplied by 250, for a total cost of $7,875. This is a new cost for sponsors. Sponsors also will need to keep on file the criteria and supporting documentation justifying exchange teacher extensions for no less than three years. Recordkeeping costs for keeping 250 extension requests on file annually at $5 per exchange teacher result in a total for all sponsors of $1,250. The cost is based on average private sector estimates of file storage costs in an office environment per one-quarter-cubic foot of files.

Finally, to ensure that this program remains an educational and cultural exchange program, the Department mandates that exchange teachers organize an activity in a public setting where there is direct interaction with host school students or with the host community and, in addition, organize an activity that involves U.S. students in a dialogue or other activity with schools or students in another country, preferably the exchange teacher's home school. It is estimated that it will take an exchange teacher three hours to perform the cross-cultural activity component and file his or her report with the sponsor, at $26.26 weighted wage multiplied by 4,000 teachers, for a total of $315,120 annually. In addition, the Department estimates that it will take sponsors one hour, a 0.5 hour increase, to assist the exchange teacher with the cross-cultural component and review these reports, which, at $31.50 per hour weighted wage for up to 4,000 reports, will total $126,000 annually (or $63,000 in new costs). Recordkeeping for sponsors' maintenance of cross-cultural reports on file for three years (an estimated 7,000 files multiplied by $5 per exchange teacher) comes to a total of $35,000 annually or $105,000 over the required three years of retention. The cost is based on average private sector estimates of file storage costs in an office environment per one-quarter cubic foot of files or by electronic means.

Teacher exchange programs conducted under the authorities of the Exchange Visitor Program promote mutual understanding by providing foreign teachers the opportunity to teach in U.S. primary and secondary schools and participate in daily educational curricula in the United States. Foreign teachers participating in the Exchange Visitor Program gain an understanding of and an appreciation for the similarities and differences between their own cultures and that of the United States. Upon their return home, these teachers enrich their schools and communities with their fresh perspectives of U.S. culture. Teacher exchanges also foster enduring relationships and lifelong friendships that help build longstanding ties between the people of the United States and other countries. In reciprocal fashion, U.S. primary and secondary school teachers and students are provided opportunities to increase their knowledge and understanding of the world through these friendships.

Although the benefits of these exchanges to the United States and its people cannot be monetized, the Department is nonetheless of the opinion that such benefits far outweigh the costs associated with this regulation. The non-monetary benefits to the Teacher exchange program contained in this rule are many: In conducting a cross-cultural component, the exchange teacher will acquaint a wide number of students in the host school and members of the host community with the teacher's home culture, and students in the exchange teacher's home and host countries will have the opportunity to learn about each other's cultures. In addition, requiring sponsors to disclose

fees and costs of the exchange to prospective exchange teachers at the time of recruitment and at the time of program selection will protect the exchange teacher and also may reduce program costs in the long run, as the disclosures can reduce turnover resulting from teachers who opt to return home early after facing unexpected costs. Finally, permitting individuals who have an advanced degree to apply for the program shortly after completing that degree will enable additional qualified, highly educated and knowledgeable exchange teachers to participate in the program.

Executive Order 12988

The Department has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burdens.

Executive Orders 12372 and 13132—Federalism

Acknowledging that the administration of schools is primarily a state function, the Department finds that this regulation will not have substantial direct effect on the states, on the relationships between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. Executive Order 12372, regarding intergovernmental consultation on federal programs and activities, does not apply to this rule.

Paperwork Reduction Act

This rule requires new collection of information by sponsors for screening, program disclosure, the cross-cultural component, and program extensions under an existing collection. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. Chapter 35, all agencies are required to submit to the Office of Management and Budget (OMB) for review and approval the reporting and recordkeeping requirements contained in any rule covered under the PRA. The information collection requirements contained in this rulemaking are issued pursuant to the PRA and OMB Control Number 1405–0147, and consist of Form DS–7000 (within the overall collection that includes Forms DS–3036, DS–3037 and DS–7000).

The Department submitted an information collection request to OMB for Forms DS–3036, DS–3037 and DS–7000 in spring 2014 for review and approval under the PRA, and did not receive substantive comments on the collection. The collection renewal was approved by the OMB on March 21, 2014. The changes requested here were not added to the collection at that time because the collection would have expired before the final Teacher rule would enter into effect. The Department received comments in response to the Notice of Proposed Rulemaking that touched on the paperwork burden associated with the proposed rule. These comments were addressed in the supplementary information section.

No amendments are required under this rulemaking for Forms DS–3036 and DS–3037, but amendments are requested under this rulemaking for Form DS–7000.

30-Day Notice of Proposed Information Collection: DS–3036, DS–3037 and DS–7000 Recording, Reporting and Data Collection Requirements—Student and Exchange Visitor Information System (SEVIS)

Title: Submission to OMB of proposed collection of information.

The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval.

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to the Office of Policy and Program Support, ECA/EC, SA–5, Floor 5, U.S. Department of State, 2200 C Street NW., Washington, DC 20522–0505; fax: (202) 632–2701; email: *JExchanges@state.gov.*

- *Title of Information Collection:* Recording, Reporting, and Data Collection—Student and Exchange Visitor Information System (SEVIS).
- *OMB Control Number:* 1405–0147.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs, Office of Private Sector Exchange, ECA/EC.
- *Form Number:* Forms DS–3036, DS–3037 and DS–7000.
- *Respondents:* Foreign teachers wishing to participate as an Exchange Visitor Program teacher, schools hosting exchange teachers on the Exchange Visitor Program, U.S. government and public and private organizations wishing to become U.S. Department of State designated sponsors authorized to conduct exchange visitor programs, and Department of State designated sponsors.
- *Estimated Number of Respondents:* 191,675 (DS–3036—60; DS–3037—1,415; DS–7000—190,200).
- *Estimated Number of Responses:* 1,558,859 (DS–3036—60; DS–3037—2,830; DS–7000—1,555,969).
- *Average Time per Response:* DS–3036—8 hours; DS–3037—20 minutes; DS–7000—50 minutes.
- *Total Estimated Burden:* 1,328,207 hours (DS–3036—480 hours; DS–3037—943 hours; DS–7000—1,326,784 hours).
- *Frequency:* On Occasion.
- *Obligation To Respond:* Required to Obtain or Retain a Benefit.

Estimate of the total new annual burden (in hours) associated with the collection.

The estimate of the total new annual burden for sponsors for the Teacher section of 22 CFR part 62 is two and one-half hours. Previously, a non-weighted wage of $20 was used to calculate sponsor costs for Form DS–7000. Therefore, some of the cost increase indicated in this rule stems from using the higher *weighted* wage figure of $31.50 for sponsors in this submission. New costs for sponsors collectively (not including recordkeeping) based on the weighted wage of $31.50 are $189,025 and based on the non-weighted wage of $20 are $133,250. (A difference of $55,775 of the overall new sponsor costs are thus attributed to using a weighted wage in these calculations.) In addition, $506,818 total costs are applicable to exchange teachers, calculated using the weighted wage of $26.26, based on the time it takes them to complete their application to the program and carry out cross-cultural activities. Costs applicable to host schools, using the weighted wage or $43.12, are $62,524 for providing exchange teachers with offer letters, making attestations to sponsors regarding temporary positions and commensurate compensation, and collecting information to file exchange teacher extensions. Individual cost figures associated with Form DS–7000 are summarized below:

- Provision by sponsors, at the time of recruitment and selection, of a summary of total fees and costs as set forth by 22 CFR 62.24(g): $126,000 total costs, of which $63,000 are new costs. (0.5 hours new or one hour total burden hours multiplied by 4,000 host schools to gather information on fees and costs for recruitment and provide information on fees and costs to selected teachers from this data at $31.50 weighted wage).
- Document collection by potential exchange teachers to prove their eligibility under 22 CFR 62.24(d)–(e):

$189,072 new cost. (Six hours multiplied by 1,200 new exchange teachers multiplied by $26.26 weighted wage).

• Sponsor screening of exchange teachers before accepting them for the program and matching them to a suitable host school under 22 CFR 62.24(d)–(f): $75,600, of which $18,900 are new costs. (0.5 new and two hours total burden multiplied by review of 1,200 exchange teacher files multiplied by $31.50 weighted wage).

• Documentation to be provided, including translation, if applicable, by exchange teachers qualifying for the program by virtue of having completed an advanced degree as set forth at 22 CFR 62.24(d)(1)(ii): $2,626 (Two hours multiplied by 50 exchange teachers multiplied by $26.26 weighted wage).

• Sponsor verification that Forms DS–2019 are not issued until potential exchange teachers have received and accepted written offers of full-time teaching positions from the accredited host school, as set forth at 22 CFR 62.24(f)(1): $18,900. This is not a new cost. (0.5 hours multiplied by 1,200 exchange teachers at $31.50 weighted wage).

• Host School provision of written offer letters of full-time teaching and attestations of temporary status of teaching positions and commensurateness of compensation at 22 CFR 62.24(f)(1) and (4)–(5): $51,744. (One hour multiplied by 1,200 schools hosting exchange teachers at $43.12 weighted wage).

• Host schools that wish to extend their exchange teacher's program into a fourth and/or fifth year will need to provide documentation to the sponsor as set forth at 22 CFR 62.24(k): $10,780. (One hour to fulfill extension requirements multiplied by 250 exchange teachers at $43.12 weighted wage).

• Sponsor review of host school request for extension as set forth at 22 CFR 62.24(k): $7,875 in new costs. (One hour to fulfill extension requirements multiplied by 250 exchange teachers at $31.50 weighted wage).

• Exchange teacher organization of the cross-cultural program component and writing of related report under 22 CFR 62.24(h): $315,120. (Three hours multiplied by 4,000 exchange teachers on program at $26.26 weighted wage).

• Sponsor assistance to exchange teachers on the cross-cultural component and review of their reports under 22 CFR 62.24(h): $126,000, of which $63,000 are new costs. (One hour multiplied by 4,000 exchange teachers at $31.50 weighted wage).

Additional new annual record-keeping is as follows:

• Recordkeeping for exchange teachers on extension: 250 files of extending exchange teachers annually at $5 per file to equal $1,250, which are new costs.

• Storing annual report with cross-cultural component: 7,000 exchange teachers multiplied by $5 per teacher to equal $35,000, which are new costs.

Abstract of collection.

The collection is the continuation of information collected and needed by the Bureau of Educational and Cultural Affairs in administering the Exchange Visitor Program (J-Nonimmigrant) under the provisions of the Mutual Educational and Cultural Exchange Act, as amended, 22 U.S.C. 2451 *et seq.* This final rule will require amendment of Form DS–7000 (Non-SEVIS Collection), as follows:

The Department requires sponsors under 22 CFR 62.24(g) to provide foreign teachers at the time of recruitment and again at the time of selection with a summary of program fees and costs, thereby enhancing transparency and better ensuring that exchange teachers understand the financial obligations they assume when choosing to participate in the Exchange Visitor Program. The cost of this requirement will come from adding a summary to the existing sponsor recruiting materials and Web site and disseminating this fee and cost summary to the individual exchange teacher at the time of selection into the program.

Successful foreign teacher applicants must demonstrate to the sponsor, as set forth under 22 CFR 62.24(d)–(e), that they meet qualifications for teaching at the primary, including pre-kindergarten, or secondary levels in schools in their home country; are working as a teacher in their home country at the time of application; and have at least two years of full-time teaching experience. They must show that they have, at a minimum, a degree equivalent to a U.S. bachelor's degree in either education or the academic subject field in which they plan to teach, demonstrate English language proficiency, provide references to their good character, and ensure that they meet the teaching requirements of the U.S. state in which they are placed. An exchange teacher who qualifies for the program by virtue of having completed an advanced degree in education or in an academic subject matter that he or she intends to teach or that is directly related to his or her teaching subject field must provide, under 22 CFR 62.24(e)(4), a letter signed by the head of a school (or another individual in an appropriate position of authority to speak for the school within the foreign country's school system) in another country, preferably that exchange teacher's home country, which states that school's willingness to work with the exchange teacher on the cultural component.

In addition, as set forth in 22 CFR 62.24(d)–(f), sponsors must screen prospective exchange teachers before accepting them for the program and must match them with a suitable host school. Such screening includes verifying the educational and other qualifications of each foreign teacher applicant to determine whether he or she satisfies all selection criteria; reviewing references for each foreign teacher attesting to that teacher's good reputation, character, and teaching skills; ensuring that each selected foreign teacher possesses sufficient proficiency in the English language to function in American classrooms as well as on a day-to-day basis; checking, if applicable, that a home school letter stating that school's willingness to work with the exchange teacher on a cross-cultural component has been submitted; checking that host schools appoint exchange teachers to temporary positions and that these teachers' salaries fall within the range paid to similarly-situated U.S. teachers; and verifying that each foreign teacher meets the requirements of the state in which he or she will teach, including criminal background check requirements.

Host schools, as set forth at 22 CFR 62.24(f)(1), will need to provide the sponsor written offers of each exchange teacher's full-time teaching position from the placement schools. In addition, host schools that wish to extend their exchange teacher's program into the fourth or fifth year will need to have sponsors apply on their behalf to the Department for an extension, as set forth in 22 CFR 62.24(k). As also set forth in 22 CFR 62.24(k), sponsors will need to collect and submit extension requests to the Department and reply to the host school.

Finally, to ensure that this program remains an educational and cultural exchange program, the Department mandates under 22 CFR 62.24(h) that exchange teachers organize an activity in a public setting where there is direct interaction with host school students or with the host community and, in addition, involve U.S. students in a dialogue or other activity with schools or students in another country, preferably with the exchange teacher's home school. Additional costs will accrue to sponsors, who will need to assist exchange teachers with the cross-

cultural component and review their cross-cultural activity reports, and to exchange teachers, who will need to carry out and report on these activities.

Additional Information

The total number of sponsor organizations designated by the Department to conduct teacher exchange program activities is 54. Around 1,200 new exchange teachers are expected annually in the Teacher exchange category to conduct exchanges in a similar number of new host schools, with an estimated 2,300 additional exchange teachers and host schools continuing their exchange on three year programs, and 250 exchange teachers annually extending their exchanges times two years, the duration of the permissible extension period, equaling an additional 500 exchange teachers, for a total of up to 4,000 exchange teachers in the United States at a given time.

List of Subjects in 22 CFR Part 62

Cultural exchange programs; Reporting and recordkeeping requirements.

Accordingly, 22 CFR part 62 is amended as follows:

PART 62—EXCHANGE VISITOR PROGRAM

■ 1. The authority citation for Part 62 is revised to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431 *et seq.;* 22 U.S.C. 2451 *et seq.;* 22 U.S.C. 2651(a); Pub. L. 105–277, Div. G, 112 Stat. 2681 *et seq.;* Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978; 3 CFR, 1978 Comp. p. 168; Pub. L. 104–208, Div. C, 110 Stat. 3009–546, as amended; Pub. L. 107–56, 416, 115 Stat. 354; and Pub. L. 107–173, 116 Stat. 543.

■ 2. Section 62.24 is revised to read as follows:

§ 62.24 Teachers.

(a) *Purpose.* The regulations in this section govern exchange visitors who teach full-time in accredited public and private U.S. primary and secondary schools (K–12), including pre-kindergarten language immersion programs offered as regular courses of study by accredited primary schools. Programs in this category promote the interchange of U.S. and foreign teachers and enhance mutual understanding between the people of the United States and other countries. Exchange teachers sharpen their professional skills and participate in cross-cultural activities in schools and communities, and they return home after the exchange to share their experiences and increased knowledge of the United States and the U.S. educational system. Such exchanges enable foreign teachers to understand better U.S. culture, society and teaching practices at the primary and secondary levels, and enhance U.S. students' knowledge of foreign cultures, customs and teaching approaches.

(b) *Designation.* The Department may, in its discretion, designate *bona fide* programs satisfying the objectives in paragraph (a) of this section as exchange visitor programs in the Teacher category.

(c) *Definitions.* In addition to those definitions set forth in § 62.2, the following definitions apply to the Teacher category of the Exchange Visitor Program:

(1) *Accredited primary or accredited secondary school:* Any publicly or privately operated primary or secondary institution for educating children in the United States that offers mainly academic programs and is duly accredited by the appropriate academic accrediting authority of the jurisdiction in which such institution is located.

(2) *Full-time teaching:* A minimum of 32 hours per week of teaching or teaching-related administrative activities.

(3) *Home country school:* An exchange teacher's school in his or her country of nationality or last legal country of residence.

(4) *Host school:* The U.S.-accredited primary or secondary school in which a sponsor places an exchange teacher pursuant to the exchange teacher's written acceptance of the placement.

(5) *International school:* A school that is so designated by its school district, state, or other applicable governing authority, or one whose curriculum focuses predominantly on international aspects of the subject matter taught and/or language immersion, or one that predominantly follows a national curriculum of a foreign country.

(6) *Language immersion program:* A program that is a regular course of study offered by an accredited school having sustained and enriched instruction, in a language not native to the majority of the student population, that occurs for at least fifty percent of the school day.

(7) *Virtual exchange:* A technology-enabled, sustained, people-to-people cross-cultural educational program that may supplement the goals of an in-person exchange and integrates global knowledge, cultural awareness, and/or foreign language into the classroom or other setting.

(d) *Teacher eligibility.* Foreign nationals are eligible to participate in exchange visitor programs as full-time teachers if, at the time of initial application to the sponsor, an individual making such application demonstrates to the satisfaction of the sponsor that he or she:

(1) Either:

(i) Meets the qualifications for teaching at the primary, including pre-kindergarten, or secondary levels in schools in his or her home country; is working as a teacher in his or her home country at the time of application; and has at least two years of full-time teaching experience; or

(ii) Is not working as a teacher in his or her home country at the time of application, but otherwise meets the qualifications for teaching at the primary (including pre-kindergarten) or secondary levels in schools in the home country; has had at least two years of full-time teaching experience within the past eight years; and, within 12 months of his or her application submission date for the program, has or will have completed an advanced degree (beyond a degree equivalent to a U.S. bachelor's degree) in education or in an academic subject matter that he or she intends to teach or that is directly related to his or her teaching subject field;

(2) Possesses, at a minimum, a degree equivalent to a U.S. bachelor's degree in either education or the academic subject field in which he or she intends to teach;

(3) Satisfies the teaching eligibility standards of the U.S. state in which he or she will teach (*e.g.* meets minimum educational requirements, has passed teacher training coursework at a sufficiently proficient level, has provided an evaluation of foreign teaching preparation coursework, has demonstrated the requisite prior teaching experience), to include any required criminal background or other checks;

(4) Is of good reputation and character; and

(5) Agrees to come to the United States temporarily as a full-time teacher of record in an accredited primary or secondary school. Exchange teachers may teach a variety of subjects and levels at their host school or schools, if qualified, but at the pre-kindergarten level, may teach only in language immersion programs.

(e) *Teacher selection.* Sponsors must screen foreign teachers carefully before accepting them for the program. In addition to the requirements set forth in § 62.10 and all security checks required by U.S. state departments of education and host schools, sponsors also must:

(1) Verify the qualifications of each foreign teacher to determine whether he or she satisfies the criteria set forth in paragraph (d) of this section;

(2) Secure references from one colleague and one current or former supervisor of each foreign teacher, attesting to that teacher's good reputation, character and teaching skills;

(3) Verify that each selected foreign teacher applicant possesses sufficient proficiency in the English language to function in U.S. classrooms and to function on a day-to-day basis, in accordance with the provision for selection of exchange visitors set forth at § 62.10(a)(2); and

(4) Verify that each foreign teacher who is eligible for the program under paragraph (d)(1)(ii) of this section has a letter from the head of a school in another country, preferably that teacher's home country, which states that school's willingness to work with the exchange teacher on the cross-cultural activity component set forth in paragraph (h)(1)(ii). The foreign school with which the exchange teacher plans to work must be at the same academic level as the foreign teacher's proposed host school. The letter submitted as part of the foreign teacher's application package must be signed by the head of the school or another individual in an appropriate position of authority to speak for the school within the foreign country's school system; the official signing the letter must list both email and telephone contact information. The letter may be submitted in English or in the original language of the home country with an English translation; the name, title/organization and contact information of the translator must be noted on the translation.

(f) *Teaching position.* Sponsors must ensure that:

(1) Forms DS–2019 are not issued until foreign teacher applicants have received and accepted written offers of full-time teaching positions from the accredited primary (including pre-kindergarten level) or secondary schools in which they will teach;

(2) Program dates coincide with the U.S. academic year cycle to ensure a smooth transition as exchange teachers arrive and depart, unless the sponsor notifies, and receives approval from, the Department for other exchange dates before the sponsor issues any Form DS–2019; sponsors should ensure that these dates are included in the exchange teacher's contract;

(3) Exchange teachers comply with any applicable collective bargaining agreement;

(4) Exchange teacher appointments to positions within accredited primary or secondary schools are temporary, even if the teaching positions are permanent, and do not lead to tenure; exchange teachers must be employees of either the host or home school during their exchange.

(5) Teaching positions, including duties, responsibilities, hours of employment, and compensation, are commensurate with those of similarly-situated U.S. teachers in the school district or host school where that exchange teacher is assigned to teach; an exchange teacher, unless he or she is on a program where the Department is the sponsor, must be employed by and under the direct supervision and guidance of his or her host school and, where applicable, host school district; and

(6) A pre-kindergarten level exchange teacher is assigned to teach full-time in an accredited host school (or in several schools within the same host school district, including at several academic levels, with prior permission from the Department). If an exchange teacher is placed in a private school where there is no host school district, then he or she must teach a full-time schedule of at least 32 hours in a school or schools located no more than 25 miles from the main host school; in such a situation, sponsors must ensure that reasonable and effective modes of transportation exist to such additional sites of activity. An exchange teacher may teach at the pre-kindergarten level only in a language immersion program offered as regular course of study by an accredited primary school.

(g) *Program disclosure.* (1) As part of recruitment, in addition to the information required by § 62.10(b)–(c), sponsors must provide on their main Web sites and in their recruiting materials a general summary of fees and other costs for the program. This summary should include, but not be limited to, the sponsor fee; foreign or domestic third party or partner fees; visa fee; the Student and Exchange Visitor Information System (SEVIS) fee; insurance costs; estimates for food, housing and local transportation costs; expected work-related deductions; and estimates or ranges for all other fees charged for and significant general costs related to participation in the teacher exchange program.

(2) At the time a foreign teacher is selected for the program, and before the exchange visitor signs any contracts with the host school, sponsors and/or the host school must provide each individual exchange teacher the following information, either within the teacher's contract or in a separate document: The name, location, and brief description of the host school; the terms and conditions of compensation (with deductions from gross salary); any provisions affecting the ability of the exchange teacher to be accompanied abroad by a spouse or dependents (including any related assistance and allowances); a summary of the significant components of the program (including a statement of the teaching requirements and related professional obligations, as well as the required cross-cultural activity component as set forth in paragraph (h) of this section); specific information on the fees and costs for which the exchange teacher will be responsible while on exchange in that school district in accordance with paragraph (g)(1); anticipated housing options and cost implications; specific local transportation options between the exchange teacher's residence and the host school and transportation cost estimates; insurance costs for accident or illness coverage, repatriation of remains and medical evacuation as required by § 62.14; estimated personal expense money for initial costs the exchange teacher may incur upon arrival in the United States prior to receiving his or her first paycheck; certification or licensure procedures and costs at the host school; administrative fees; and any placement fees. Exchange teacher compensation, unless provided directly to the exchange teacher through government funding, through continued support from the exchange teacher's home school, or from both the teacher's home and host school in a shared cost arrangement, must be paid directly by the host school or host school district in which the exchange teacher is placed.

(h) *Cross-cultural activity component.* In addition to the requirements of § 62.10:

(1) Sponsors must require each exchange teacher to complete, within the United States, and during each academic year of program participation, at least one cross-cultural activity from each of the following two categories:

(i) An activity for the teacher's classroom, larger host school or host school district population, or the community at large designed to give an overview of the history, traditions, heritage, culture, economy, educational system and/or other attributes of his or her home country. Sponsors of exchange teachers placed at international schools must require their exchange teachers to conduct at least one cross-cultural activity per academic year outside the host school in nearby schools or communities where international opportunities may be more limited than those found in their host school; and

(ii) An activity that involves U.S. student dialogue with schools or students in another country, preferably

in the exchange teacher's home school, through virtual exchange or other means, in order to supplement the goals of the in-person exchange.

(2) Sponsors must collect annual reports from their exchange teachers detailing the cross-cultural activity component of their exchange program. The annual report does not have to be in a specific format, but must include the exchange teacher's full name and the program sponsor's name. The report section about the cross-cultural activity component must contain the following information:

(i) The date(s) of each activity;

(ii) The location of each activity;

(iii) The audience for and participants in each activity;

(iv) A general overview of each activity, including the topic; and

(v) The estimated impact of each activity.

(i) *Location of the exchange.* Exchange teachers must participate in exchange visitor programs at the accredited primary or secondary schools listed on their Forms DS–2019 or at location(s) where the institutions are involved in official school activities (*e.g.,* school field trips, teacher development programs);

(j) *Duration of participation.* Exchange teachers may be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which may not exceed three years unless a specific extension of one or two years is authorized by the Department as set forth in paragraph (k) of this section.

(k) *Program extensions.* (1) Sponsors may request from the Department an extension of an exchange teacher's exchange by either one or two years, but not by a semester or by other fractions of academic years.

(2) The sponsor's request for extension must include:

(i) A letter of reference on official letterhead written by the host school or host school district administrator responsible for overseeing the exchange teacher that describes the exchange teacher's performance during the previous three years of the exchange and how the host school has benefited from the exchange teacher's presence; and

(ii) a document describing how the exchange teacher over the previous three years has engaged his or her classroom, the wider host school or host school district, or community through the cross-cultural activity component, if these activities are not already detailed in the exchange teacher's annual reports.

(3) Sponsors must submit their extension request and supporting documentation for the extension to the Department no later than three months prior to the beginning of the desired extension period for the exchange teacher.

(4) Sponsor requests for extension must include proof of payment of the required non-refundable extension fee as set forth in § 62.17.

(5) The Department, at its discretion, may authorize a sponsor to extend an exchange teacher's participation for either one or two additional years beyond the initial three-year exchange period. Sponsors must comply with all Department guidance on creating an extension record for the teacher within SEVIS.

(6) Sponsors that applied for a two-year extension on behalf of a host school and its exchange teacher and received permission from the Department only for a one-year extension may apply again to extend the program of that host school's exchange teacher for one additional year by following the procedures set forth in paragraphs (k)(2)–(4) of this section. The sponsor should include with such additional extension request a copy of the prior extension request submitted to enable the initial one-year extension.

(l) *Repeat participation.* Foreign nationals who have successfully completed teacher exchange programs are eligible to participate in additional teacher exchange programs, provided that they have resided outside the United States for at least two years following the successful completion of their most recent teacher exchange program and continue to meet the eligibility requirements set forth in paragraph (d) of this section.

Dated: January 14, 2016.

Robin J. Lerner,

Deputy Assistant Secretary for Private Sector Exchange, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–01421 Filed 1–28–16; 8:45 am]

BILLING CODE 4710–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2015–0085; FRL–9933–49–Region 8]

Approval and Promulgation of State Implementation Plan Revisions; Rules, General Requirements and Test Methods; Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Utah on January 28, 2010, September 16, 2010, June 18, 2013, and August 29, 2014. These submittals revise the rules, general requirements and test methods for the State of Utah. The amendments also update the version of the Code of Federal Regulations (CFR) incorporated by reference into the rules of the State of Utah. EPA is not taking action on an April 26, 2012 submittal or a November 4, 2013 submittal because they have been superseded by the August 29, 2014 submittal. EPA is taking this action in accordance with section 110 of the Clean Air Act (CAA).

DATES: This final rule is effective February 29, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2015–0085. 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, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Jody Ostendorf, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, 303–312–7104, *ostendorf.jody@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background for Our Final Action

The background for today's final rule is discussed in detail in our June 19, 2015 proposal (see 80 FR 35295). The comment period was open for 30 days and we received no comments.

II. Final Rule

EPA is approving the SIP revisions submitted by Utah on January 28, 2010, September 16, 2010, June 18, 2013 and August 29, 2014. We are approving the January 28, 2010 revisions to R307–405–2, with the exception of the proposed change to the incorporation by reference date, and approving all of the revisions to R307–102. We are approving the June 18, 2013 SIP revisions, with the exception of the non-substantive change to re-number R307–410–5(1)[(d)] to R307–410–5(1)(c)(i)(C). The August 29, 2014 submittal's newly amended rule supersedes and replaces all previous versions of submittals of R307–101–3, *General Requirements, Version of Code of Federal Regulations Incorporated by Reference.* EPA is approving the August 29, 2014 revisions. Previous submittals were received on January 28, 2010, September 16, 2010, April 26, 2012 and November 4, 2013. No further EPA action is required on those earlier submittals.

III. Incorporation by Reference

In this rule, the EPA is including in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Utah Division of Air Quality rules regarding rules, general requirements, and test methods discussed in the June 19, 2015 proposal (FR 35295). 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).

IV. Statutory and Executive Orders Review

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 actions, provided that they meet the criteria of the Clean Air Act. Accordingly, this final action merely approves some 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 in 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).

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 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 March 29, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: August 24, 2015.

Shaun L. McGrath,

Regional Administrator, Region 8.

Editorial note: This document was received for publication by the Office of Federal Register on January 21, 2016.

40 CFR part 52 is amended to read 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 TT—Utah

■ 2. Section 52.2320 is amended by adding and reserving paragraph (c)(81) and adding paragraph (c)(82) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(81) * * *

(82) On January 28, 2010, September 16, 2010, June 18, 2013, November 4, 2013 and August 29, 2014, the Governor submitted revisions to the Utah State Implementation Plan (SIP). We are approving the January 28, 2010 revisions to R307–405–2, with the exception of the proposed change to the incorporation by reference date, and approving all of the revisions to R307–102. We are approving the June 18, 2013

SIP revisions, with the exception of the non-substantive change to re-number R307–410–5(1)[(d)] to R307–410–5(1)(c)(i)(C). The August 29, 2014 submittal's newly amended rule supersedes and replaces all previous versions of submittals of R307–101–3, *General Requirements, Version of Code of Federal Regulations Incorporated by Reference.* EPA is approving the August 29, 2014 revisions. Previous submittals of R307–101–3 were received on January 28, 2010, September 16, 2010, April 26, 2012 and November 4, 2013. No further EPA action is required on these earlier submittals.

(i) *Incorporation by reference.*

(A) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality*, R307–101, *General Requirements*, R307–101–2, *Definitions*; effective December 2, 2009 as proposed in the Utah State Bulletin on October 1, 2009, and published as effective in the Utah State Bulletin on January 1, 2010.

(B) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality*, R307–101, *General Requirements*, R307–101–3, *Version of Code of Federal Regulations Incorporated by Reference*; effective August 7, 2014, as proposed in the Utah State Bulletin on June 1, 2014, and published as effective in the Utah State Bulletin on September 1, 2014.

(C) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality*, R307–401, *Permit: New and Modified Sources*, R307–401–15, *Air Strippers and Soil Venting Projects*; effective February 7, 2013, as proposed in the Utah State Bulletin on December 1, 2012, and published as effective in the Utah State Bulletin on March 1, 2013.

(D) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality*, R307–405, *Permits: Major Sources in Attainment or Unclassified Areas (PSD)*, R307–405–2, *Applicability*; effective February 5, 2009, as proposed in the Utah State Bulletin on November 1, 2008, and published as effective in the Utah State Bulletin on March 1, 2009.

[FR Doc. 2016–01550 Filed 1–28–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2015–0371; FRL–9932–59–Region 8]

Approval and Promulgation of State Implementation Plan Revisions; Rules, Public Notice and Comment Process, and Renumbering; Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve State Implementation Plan (SIP) revisions submitted by the State of Utah on February 25, 2013, August 5, 2013, and March 5, 2014. These submittals request SIP revisions to incorporate several changes to Utah's rules, including the permit public notice and comment process requirements, and renumbering for the ''Interstate Transport'' provisions. EPA is taking this action in accordance with section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on March 29, 2016 without further notice, unless EPA receives adverse comments by February 29, 2016. 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: The EPA has established a docket for this action under Docket Identification Number EPA–R08–OAR–2015–0371. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in the hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 8, Office of Partnerships and Regulatory Assistance, Air Program, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m.–4:00 p.m., excluding federal holidays. An electronic copy of the State's SIP compilation is also available at *http://www.epa.gov/region8/air/sip.html.*

FOR FURTHER INFORMATION CONTACT: Jody Ostendorf, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–7814, *ostendorf.jody@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

What should I consider as I prepare my comments for EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** volume, date, and page number).
- Follow directions and organize your comments.
- Explain why you agree or disagree.
- Suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Analysis of the State Submittals

Utah's February 25, 2013 submittal, in part, renumbers R307–110–36, Section XXIII, Interstate Transport, to R307–

110–37. On November 10, 2014, EPA proposed the addition of a new R307–110–36, Section X, Vehicle Inspection and Maintenance Program, Part F., Cache County (79 FR 66670). This rulemaking approves the new numbering of the Interstate Transport provision into Utah's SIP as R307–110–37.

The August 5, 2013 SIP revision gives authority to the Director of the Division of Air Quality to make regulatory decisions that were previously made by the Air Quality Board or the Executive Secretary of the Air Quality Board. This revision conforms with Utah Senate Bill 21, which was passed by the Utah State Legislature during the 2012 legislative session. Most of these changes are administrative in nature because they replace ''executive secretary'' with ''director,'' and, in Utah, they are the same person. The 22 rules where this change occurs are R307–105, 130, 165, 170, 201, 203, 204, 205, 250, 305, 306, 320, 326, 327, 328, 341, 401, 403, 405, 406, 410 and 414.

Three rules in the August 5, 2013 submittal, however, result in substantive changes to comply with Utah Senate Bill 21. The three rules are: R307–101, General Requirements; R307–102, General Requirements: Broadly Applicable Requirements; and R307–307, Davis, Salt Lake, and Utah Counties: Road Salting and Sanding. The changes in these rules replace occurrences of ''board'' with ''director,'' add definitions for ''director'' and ''division,'' and remove the definition of ''executive secretary.'' As these changes update the Utah SIP to ensure the proper authorities are consistent with the state code, EPA is approving these revisions.

The March 5, 2014 SIP revision to R307–401–7, Permit: New and Modified Sources, Public Notice, addresses a previous EPA disapproval by establishing a 30-day public comment period for the public notice and comment period for all permit actions for new or modified sources. Previously, Utah had revised its permit public notice procedures for minor sources to allow for a 10-day public comment period for an approval or disapproval order issued under R307–401–8 and requested EPA to approve that SIP revision. EPA disapproved that request because it is inconsistent with Utah's current federally approved SIP (79 FR 7072, February 6, 2014). In that disapproval, EPA also noted that federal regulations for Public Availability of Information found at 40 CFR 51.161(b)(2) require at a minimum a 30-day public comment period for the permitting of a source, including minor source permits. EPA is approving this revision.

III. What action is EPA taking today?

EPA is taking direct final action to approve the SIP revisions submitted by the State of Utah on February 25, 2013, August 5, 2013, and March 5, 2014. EPA is approving a portion of the February 25, 2013 submittal which renumbers R307–110–36, Interstate Transport to R307–110–37, to allow the addition of Section X, Vehicle Inspection and Maintenance Program, Part F., Cache County. EPA is approving the August 5, 2013 SIP revisions, which give the Director of the Division of Air Quality the authority to make regulatory decisions that were previously made by either the Air Quality Board or the Executive Secretary of the Air Quality Board. Finally, EPA is approving the March 5, 2014 submittal which establishes a 30-day public comment period for the public notice and comment period for permitting actions for new or modified sources.

EPA is approving the proposed SIP revisions as a direct final action without prior proposal because the Agency views the revisions as noncontroversial and anticipates no adverse comments. However, in the Proposed Rules section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revisions if adverse comments are filed. This rule will be effective March 29, 2016 without further notice unless the Agency receives adverse comments by February 29, 2016. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must 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.

IV. 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 for the revisions to the Utah Division of Air Quality rules including, the permit public notice and comment process, and renumbering discussed in section II, *Analysis of the State Submittals*, of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Orders Review

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 actions, provided that they meet the criteria of the Clean Air Act. Accordingly, this direct final action merely approves some 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 in 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).

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 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 March 29, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: August 4, 2015.

Shaun L. McGrath,

Regional Administrator, Region 8.

Editorial Note: This document was received for publication by the Office of Federal Register on January 14, 2016.

40 CFR part 52 is amended to read 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 TT—Utah

■ 2. Section 52.2320 is amended by adding paragraph (c)(81) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(81) On February 25, 2013, August 5, 2013, and March 5, 2014, the Governor submitted revisions to the Utah State Implementation Plan (SIP) rules. The February 25, 2013 submittal renumbers Interstate Transport to R307–110–37. The August 5, 2013 SIP revisions give the Director of the Division of Air Quality the authority to make regulatory decisions that were previously made by either the Air Quality Board or the Executive Secretary of the Air Quality Board. The March 5, 2014 submittal establishes a 30-day public comment period for the public notice and comment period for all actions for new or modified sources. EPA is approving these revisions.

(i) *Incorporation by reference.*

(A) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality*, R307–110, *General Requirements: State Implementation Plan*, R307–110–37, *Section XXIII, Interstate Transport*; effective December 6, 2012, as proposed in the Utah State Bulletin on October 1, 2012, and published as effective in the Utah State Bulletin on January 1, 2013.

(B) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality*, R307–401, *Permit: New and Modified Sources*, R307–401–7, *Public Notice*; effective October 3, 2013, as proposed in the Utah State Bulletin on August 1, 2013, and published as effective in the Utah State Bulletin on November 1, 2013.

(C) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality*, R307–101, *General Requirements*; effective November 8, 2012, as proposed in the Utah State Bulletin on September 1, 2012, and published as effective in the Utah State Bulletin on December 1, 2012.

(D) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality*, R307–102, *General Requirements: Broadly Applicable Requirements*; effective November 8, 2012, as proposed in the Utah State Bulletin on September 1, 2012, and published as effective in the Utah State Bulletin on December 1, 2012.

(E) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality*, R307–307, *Davis, Salt Lake, and Utah Counties: Road Salting and Sanding*; effective November 8, 2012, as proposed in the Utah State Bulletin on September 1, 2012, and published as effective in the Utah State Bulletin on December 1, 2012.

[FR Doc. 2016–01022 Filed 1–28–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R06–2015–2015–0661; FRL–9940–27–Region 6]

Arkansas: Final Authorization of State-Initiated Changes and Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: During a review of Arkansas' regulations, the Environmental Protection Agency (EPA) identified two State-initiated changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). We have determined that these changes are minor and satisfy all requirements needed to qualify for Final authorization and are authorizing the State-initiated changes through this direct Final action.

The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the Federal program. The EPA uses the regulations entitled ''Approved State Hazardous Waste Management

Programs'' to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that will be subject to the EPA's inspection and enforcement. The rule codifies in the regulations the prior approval of Arkansas' hazardous waste management program and incorporates by reference authorized provisions of the State's statutes and regulations.

DATES: This regulation is effective March 29, 2016, unless the EPA receives adverse written comment on this regulation by the close of business February 29, 2016. If the EPA receives such comments, it will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that this rule will not take effect. The Director of the Federal Register approves this incorporation by reference as of March 29, 2016 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

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

2. *Email: patterson.alima@epa.gov or banks.julia@epa.gov.*

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, or Julia Banks, Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, or Julia Banks, Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov,* or email. The Federal *http://www.regulations*.gov Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations*.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*).

You can view and copy the documents that form the basis for this codification and associated publicly available materials from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following location: EPA Region 6, 1445 Ross Avenue, Dallas, Texas, 75202–2733, phone number (214) 665–8533 or (214) 665–8178. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 Regional Authorization Coordinator, or Julia Banks, Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone numbers: (214) 665–8533 or (214) 665–8178, and Email address *patterson.alima@epa.gov or banks.julia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Authorization of State-Initiated Changes

A. Why are revisions to State programs necessary?

States which have received Final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal program changes, the States must change their programs and ask the EPA to authorize the changes. Changes to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279. States can also initiate their own changes to their hazardous waste program and these changes must then be authorized.

B. What decisions have we made in this rule?

We conclude that Arkansas' revisions to its authorized program meet all of the statutory and regulatory requirements established by RCRA. We found that the State-initiated changes make Arkansas' rules more clear or conform more closely to the Federal equivalents and are so minor in nature that a formal application is unnecessary. Therefore, we grant Arkansas final authorization to operate its hazardous waste program with the changes described in the table at Section G below. Arkansas has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out all authorized aspects of the RCRA program, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Arkansas, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

The effect of this decision is that a facility in Arkansas subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Arkansas has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the statutes and regulations for which Arkansas is being authorized by this direct final action are already effective and are not changed by this action.

D. Why wasn't there a proposed rule before this rule?

The EPA did not publish a proposal before this rule because we view this as

a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the Proposed Rules section of this **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What happens if EPA receives comments that oppose this action?

If the EPA receives comments that oppose the authorization of the State-initiated changes in this codification document, we will withdraw this rule by publishing a timely document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program we may withdraw only that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization of the State program will become effective and which part is being withdrawn.

In addition to the authorizing of the rules described above in this document. The purpose of this **Federal Register** document is to codify Arkansas' base hazardous waste management program and its revisions to that program. The EPA has already provided notices and opportunity for comments on the Agency's decisions to authorize the Arkansas program, and the EPA is not now reopening the decisions, nor requesting comments, on the Arkansas authorizations as published in the **Federal Register** documents specified in Section I.F of this document.

F. For what has Arkansas previously been authorized?

Arkansas initially received final authorization on January 25, 1985 (50 FR 1513), to implement its Base Hazardous Waste Management program. Arkansas received authorization for revisions to its program on January 11, 1985 (50 FR 1513), effective January 25, 1985; March 27, 1990 (55 FR 11192), effective May 29, 1990; September 18, 1991 (56 FR 47153), effective November 18, 1991; October 5, 1992 (57 FR 45721), effective December 4, 1992; October 7, 1994 (59 FR 51115), effective December 21, 1994, April 24, 2002 (67 FR 20038), effective June 24, 2002, as amended June 28, 2010 (75 FR 36538); August 15, 2007 (72 FR 45663), effective October 15, 2007, as amended June 28, 2010 (75 FR 36538); June 28, 2010 (75 FR 36538), effective August 27, 2010; August 10, 2012 (77 FR 47779), effective October 9, 2012; October 2, 2014 (79 FR 59438), effective December 1, 2014; and October 31, 2014, 79 FR 64678, effective December 30, 2014.

G. What changes are we authorizing with this action?

The State has made amendments to Arkansas Regulation No. 23 Sections 264.1030(c) and 265.142(a) introductory paragraph, analogous to 40 CFR 264.1030(c) and 265.142(a) introductory paragraph, respectively. These amendments clarify the State's regulations and make the State's regulations more internally consistent. The State's laws and regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than the Federal laws and regulations. These State-initiated changes satisfy the requirements of 40 CFR 271.21(a). We are granting Arkansas final authorization to carry out the following provisions of the State's program in lieu of the Federal program. These provisions are analogous to the indicated RCRA regulations found at 40 CFR as of July 1, 2011. The Arkansas provisions are from the Arkansas Pollution Control and Ecology Commission Regulation No. 23, Hazardous Waste Management, adopted on June 22, 2012, effective August 12, 2012.

H. Who handles permits after the authorization takes effect?

This authorization does not affect the status of State permits and those permits issued by the EPA because no new substantive requirements are a part of these revisions.

I. How does this action affect Indian Country (18 U.S.C. 1151) in Arkansas?

Arkansas is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian Country.

II. Incorporation-by-Reference

A. What is codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste management program into the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs to operate in lieu of the Federal hazardous waste management regulatory program. The EPA codifies its authorization of State programs in 40 CFR part 272 and incorporates by reference State statutes and regulations that the EPA will enforce under sections 3007 and 3008 of RCRA and any other applicable statutory provisions.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and State requirements that can be Federally enforced. This effort provides clear notice to the public of the scope of the authorized program in each State.

B. What is the history of codification of Arkansas' hazardous waste management program?

The EPA incorporated by reference Arkansas' then authorized hazardous waste program effective December 13, 1993 (58 FR 52674), August 21, 1995 (60 FR 32112), August 27, 2010 (75 FR 36538) and December 1, 2014 (79 FR 59438). Note: At 79 FR 59443, the State agency acronym should be referenced as ''(ADEQ)'' with regard to the State's Memorandum of Agreement with the EPA.

In this document, the EPA is revising subpart E of 40 CFR part 272 to include the authorization revision action effective December 30, 2014 (79 FR 64678).

C. What codification decisions have we made in this rule?

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 Arkansas rules described in the amendments to 40 CFR part 272 set forth below. The EPA has made, and will continue to make, these documents available electronically through *www.regulations.gov* and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

The purpose of this **Federal Register** document is to codify Arkansas' base hazardous waste management program and its revisions to that program. The document incorporates by reference Arkansas' hazardous waste statutes and regulations and clarifies which of these provisions are included in the

authorized and Federally enforceable program. By codifying Arkansas' authorized program and by amending the Code of Federal Regulations, the public will be more easily able to discern the status of Federally approved requirements of the Arkansas hazardous waste management program.

The EPA is incorporating by reference the Arkansas authorized hazardous waste management program in subpart E of 40 CFR part 272. Section 272.201 incorporates by reference Arkansas' authorized hazardous waste statutes and regulations. Section 272.201 also references the statutory provisions (including procedural and enforcement provisions) which provide the legal basis for the State's implementation of the hazardous waste management program, the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which are approved as part of the hazardous waste management program under Subtitle C of RCRA.

D. What is the effect of Arkansas' codification on enforcement?

The EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in authorized States. With respect to these actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than any authorized State analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Arkansas procedural and enforcement authorities. Section 272.201(c)(2) of 40 CFR lists the statutory provisions which provide the legal basis for the State's implementation of the hazardous waste management program, as well as those procedural and enforcement authorities that are part of the State's approved program, but these are not incorporated by reference.

E. What state provisions are not part of the codification?

The public needs to be aware that some provisions of Arkansas' hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

(1) provisions that are not part of the RCRA subtitle C program because they are ''broader in scope'' than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules adopted by Arkansas but for which the State is not authorized;

(3) Unauthorized amendments to authorized State provisions;

(4) New unauthorized State requirements;

(5) A Federal program which has since been withdrawn by the U.S. EPA; and

(6) Federal rules for which Arkansas is authorized but which were vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 08–1144, June 27, 2014).

State provisions that are ''broader in scope'' than the Federal program are not part of the RCRA authorized program and the EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.201(c)(3) lists the Arkansas regulatory provisions which are ''broader in scope'' than the Federal program and which are not part of the authorized program being incorporated by reference. ''Broader in scope'' provisions cannot be enforced by the EPA; the State, however, may enforce such provisions under State law.

Additionally, Arkansas' hazardous waste regulations include amendments which have not been authorized by the EPA. Since the EPA cannot enforce a State's requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to be precise in delineating the scope of a State's authorized hazardous waste program. Regulatory provisions that have not been authorized by the EPA include amendments to previously authorized State regulations as well as certain Federal rules and new State requirements.

Arkansas has adopted but is not authorized for the following Federal rules published in the **Federal Register** on July 15, 1985 (50 FR 28702; amendments to 40 CFR 260.22 only); April 12, 1996 (61 FR 16290); October 4, 2005 (70 FR 57769); April 4, 2006 (71 FR 16862); July 14, 2006 (71 FR 40254); and January 8, 2010 (75 FR 1236). Therefore, these Federal amendments included in Arkansas' regulations, are not part of the State's authorized program and are not part of the incorporation by reference addressed by this **Federal Register** document.

Arkansas adopted and was authorized for the following Federal Performance Track program, which has since been terminated by the U.S. EPA: published in the **Federal Register** on April 22, 2004 (69 FR 21737), as amended October 25, 2004 (69 FR 62217). Arkansas has also adopted but is not authorized for the April 4, 2006 (71 FR 16862) Burden Reduction Initiative amendments to the following provisions regarding Performance Track: 40 CFR 260.10, 265.15, 265.174, 265.195, 265.201, 265.1101, 270.42(l) and Item O.1 of appendix I to § 270.42.

Arkansas has adopted and was authorized for the following Federal rules which have since been vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 08–1144, respectively; June 27, 2014): (1) The Comparable Fuels Exclusion at 40 CFR 261.4(a)(16) and 261.38 published in the **Federal Register** on June 19, 1998 (63 FR 33782), as amended on June 15, 2010 (75 FR 33712); and (2) the Gasification Exclusion Rule published on January 2, 2008 (73 FR 57).

State regulations that are not incorporated by reference in this rule at 40 CFR 272.201(c)(1), or that are not listed in 40 CFR 272.201(c)(2) (''legal basis for the State's implementation of the hazardous waste management program''), 40 CFR 272.201(c)(3) (''broader in scope'') or 40 CFR 272.201(c)(4) (''unauthorized state amendments''), are considered new unauthorized State requirements. These requirements are not Federally enforceable.

With respect to any requirement pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized, the EPA will continue to enforce the Federal HSWA standards until the State is authorized for these provisions.

F. What will be the effect of federal HSWA requirements on the codification?

The EPA is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by the EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) takes effect in authorized and not authorized States at the same time. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by the EPA (50 FR 28702, July 15, 1985). The EPA has the authority to implement HSWA requirements in all States, including authorized States, until the States become authorized for such requirement or prohibition. Authorized States are required to revise their programs to adopt the HSWA requirements and prohibitions, and then to seek

authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), the EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing State requirements may be similar to the HSWA requirement implemented by the EPA. However, until the EPA authorizes those State requirements, the EPA can only enforce the HSWA requirements and not the State analogs. The EPA will not codify those State requirements until the State receives authorization for those requirements.

Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This rule incorporates by reference Arkansas' authorized hazardous waste management regulations and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely incorporates by reference certain existing State hazardous waste management program requirements which the EPA already approved under 40 CFR part 271, and with which regulated entities must already comply, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This action 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 (64 FR 43255, August 10, 1999), because it merely incorporates by reference existing authorized State hazardous waste management program requirements without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000).

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

The requirements being codified are the result of Arkansas' voluntary participation in the EPA's State program authorization process under RCRA Subtitle C. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

List of Subjects

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 272

Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

Authority: This rule is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: November 16, 2015.

Ron Curry,

Regional Administrator, Region 6.

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), EPA is granting final authorization under part 271 to the State of Arkansas for revisions to its hazardous waste program under the Resource Conservation and Recovery Act and is amending 40 CFR part 272 as follows.

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Revise § 272.201 to read as follows:

§ 272.201 Arkansas State-administered program: Final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Arkansas final authorization for the following elements as submitted to EPA in Arkansas' base program application for final authorization which was approved by EPA effective on January 25, 1985. Subsequent program revision applications were approved effective on May 29, 1990; November 18, 1991; December 4, 1992; December 21, 1994; June 24, 2002; October 15, 2007; August 27, 2010; October 9, 2012, December 1, 2014, December 30, 2014 and March 29, 2016.

(b) The State of Arkansas has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to

exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State statutes and regulations.* (1) The Arkansas statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Arkansas statutes that are incorporated by reference from Michie Publishing, 1275 Broadway, Albany, New York 12204, Phone: (800) 223–1940. Copies of the Arkansas regulations that are incorporated by reference are available from the Arkansas Department of Environmental Quality Web site at *http://www.adeq.state.ar.us/regs/default.htm* or the Public Outreach Office, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118–5317, Phone: (501) 682–0923. You may inspect a copy at EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202 (Phone number (214) 665–8533), or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(i) The binder entitled ''EPA-Approved Arkansas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program'', dated December 2014.

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, Title 4, Business and Commercial Law, Chapter 75: Section 4–75–601(4) ''Trade Secret''.

(ii) Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, Title 8, Environmental Law, Chapter 1: Section 8–1–107.

(iii) Arkansas Hazardous Waste Management Act of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, Title 8, Environmental Law, Chapter 7, Subchapter 2: Sections 8–7–204 (except 8–7–204(e)(3)(B)), 8–7–205 through 8–7–214, 8–7–217, 8–7–218, 8–7–220, 8–7–222, 8–7–224, 8–7–225(b) through 8–7–225(d), and 8–7–227.

(iv) Arkansas Resource Reclamation Act of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, Title 8, Environmental Law, Chapter 7, Subchapter 3: Sections 8–7–302(3), 8–7–303 and 8–7–308.

(v) Remedial Action Trust Fund Act of 1985, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, Title 8, Environmental Law, Chapter 7, Subchapter 5: Sections 8–7–503(6) and (7), 8–7–505(3), 8–7–507, 8–7–508, 8–7–511 and 8–7–512.

(vi) Arkansas Freedom of Information Act (FOIA) of 1967, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, Title 25, State Government, Chapter 19: Sections 25–19–103(1), 25–19–105, 25–19–107.

(vii) Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended June 22, 2012, effective August 12, 2012, Chapter One; Chapter Two, Sections 1, 2, 3(a), 3(b)(3), 4, 260.2, 260.20(c) through (f), 261 Appendix IX, 270.7(h) and (j), 270.10(e)(8), 270.34, Chapter Three, Sections 19, 21 and 22; Chapter Five, Section 28.

(viii) Arkansas Pollution Control and Ecology (APC&E) Commission, Regulation No. 7, Civil Penalties, July 24, 1992.

(ix) Arkansas Pollution Control and Ecology (APC&E) Commission, Regulation No. 8, Administrative Procedures, February 12, 2009.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Arkansas Hazardous Waste Management Act, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, Title 8, Environmental Law, Chapter 7, Subchapter 2: Section 8–7–226.

(ii) Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended June 22, 2012, effective August 12, 2012, Chapter Two, Sections 6, 262.13(c), 262.24(d), 263.10(e), 263.13, 264.71(e), and 265.71(e).

(4) *Unauthorized State amendments and provisions.* (i) Arkansas has partially or fully adopted, but is not authorized to implement, the Federal rules that are listed in the table in this paragraph (c)(4)(i). The EPA will continue to implement the Federal HSWA requirements for which Arkansas is not authorized until the State receives specific authorization for those requirements. The EPA will not enforce the non-HSWA Federal rules although they may be enforceable under State law. For those Federal rules that contain both HSWA and non-HSWA requirements, the EPA will enforce only the HSWA portions of the rules.

Federal requirement	**Federal Register** reference	Publication date
HSWA Codification Rule—Delisting (HSWA) (Checklist 17B—amendments to 40 CFR 260.22 only)	50 FR 28702	July 15, 1985.
Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (''Headworks exemptions'') (Non-HSWA) (Checklist 211).	70 FR 57769	October 4, 2005.
Burden Reduction Initiative (HSWA and Non-HSWA) (Checklist 213)	71 FR 16862	April 4, 2006.
Corrections to Errors in the Code of Federal Regulations (HSWA and Non-HSWA) (Checklist 214)	71 FR 40254	July 14, 2006.

(ii) The Federal rules listed in the table in this paragraph (c)(4)(ii) are not delegable to States. Arkansas has adopted these provisions and left the authority to the EPA for implementation and enforcement.

Federal requirement	Federal Register reference	Publication date
Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision (HSWA) (Checklist 152).	61 FR 16290	April 12, 1996.
OECD Requirements; Export Shipments of Spent Lead-Acid Batteries (Non-HSWA) (Checklist 222)	75 FR 1236	January 8, 2010.

(5) *Terminated Federal program.* Arkansas adopted and was authorized for the following Federal program as amended, which has since been terminated by the U.S. EPA. In addition, Arkansas has adopted and is not authorized for the April 4, 2006 Burden Reduction Initiative (71 FR 16862; Checklist 213) amendments to these provisions affecting the Performance Track program: 40 CFR 260.10, 265.15, 265.174, 265.195, 265.201, 265.1101, 270.42(l) and Item O.1 of appendix I to § 270.42.

Federal requirement	Federal Register reference	Publication date
National Environmental Performance Track Program (Checklist 204)	69 FR 21737	April 22, 2004.
National Environmental Performance Track Program; Corrections (Rule 204.1)	69 FR 62217	October 25, 2004.

(6) *Vacated Federal rules.* Arkansas adopted and was authorized for the following Federal rules which have since been vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 08–1144, respectively; June 27, 2014):

Federal requirement	Federal Register reference	Publication date
Hazardous Waste Combustors; Revised Standards (HSWA) (Checklist 168—40 CFR 261.4(a)(16) and 261.38 only).	63 FR 33782	June 19, 1998.
Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas (Checklist 216—Definition of ''Gasification'' at 40 CFR 260.10 and amendment to 40 CFR 261.4(a)(12)(i)).	73 FR 57	January 2, 2008.
Expansion of RCRA Comparable Fuel Exclusion (Checklist 221—amendments to 40 CFR 261.4(a)(16) and 261.38).	73 FR 77954	December 19, 2008.

(7) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region VI and the State of Arkansas, signed by the Executive Director of the Arkansas Department of Environmental Quality (ADEQ) on June 27, 2012, and by the EPA Regional Administrator on July 10, 2012, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(8) *Statement of legal authority.* ''Attorney General's Statement for Final Authorization'', signed by the Attorney General of Arkansas on July 9, 1984 and revisions, supplements, and addenda to that Statement dated September 24, 1987, February 24, 1989, December 11, 1990, May 7, 1992 and by the Independent Legal Counsel on May 10, 1994, February 2, 1996, March 3, 1997, July 31, 1997, December 1, 1997, December 12, 2001, July 27, 2006, December 12, 2010 and October 1, 2012 are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(9) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by revising the listing for ''Arkansas'' to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Arkansas

The statutory provisions include:

Arkansas Hazardous Waste Management Act of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, Title 8, Environmental Law, Chapter 7, Subchapter 2: Sections 8–7–202, 8–7–203, 8–7–215, 8–7–216, 8–7–219, 8–7–221, 8–7–223 and 8–7–225(a).

Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, Title 8, Environmental Law, Chapter 10, Subchapter 3: Section 8–10–301(d).

Copies of the Arkansas statutes that are incorporated by reference are available from Michie Publishing, 1275 Broadway Albany, New York 12204, Phone: (800) 223–1940.

The regulatory provisions include:

Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended June 22, 2012, effective August 12, 2012. Please note that the 2012 APC&E Commission Regulation No. 23, is the most recent version of the Arkansas authorized hazardous waste regulations. For a few provisions, the authorized versions are found in the APC&E Commission Regulation 23, effective January 21, 1996, March 23, 2006 or June 13, 2010. Arkansas made subsequent changes to these provisions but these changes have not been authorized by EPA. The provisions from the January 21, 1996, March 23, 2006 or June 13, 2010 regulations are noted below.

Chapter Two, Sections 3(b) introductory paragraph; 3(b)(2); 3(b)(4); Section 260—Hazardous Waste Management System—General—260.1; 260.3; 260.10 (except the definitions of ''consolidation'', ''gasification'', ''Performance Track member facility'', the phrase ''a written permit issued by the Arkansas Highway and Transportation Department authorizing a person to transport hazardous waste (Hazardous Waste Transportation Permit), or'' in the definition for ''permit'') 260.11 (except reserved provisions); 260.20 (except 260.20(c) through (f)); 260.21; 260.23; 260.30; 260.31(a);

260.31(b) introductory paragraph; 260.31 (b)(1) through (8) (March 23, 2006); 260.31(c); 260.32; 260.33; 260.40; and 260.41.

Section 261—Identification and Listing of Hazardous Waste—261.1; 261.2; 261.3 (except 261.3(a)(2)(iv) and reserved provisions); 261.3(a)(2)(iv) (March 23, 2006); 261.4(a) (except 261.4(a)(9)(iii), 261.4(a)(12)(i), and 261.4(a)(16)); 261.4(a)(9)(iii) (March 23, 2006); 261.4(b) through (e); 261.4(f) (except 261.4(f)(9)); 261.4(f)(9) (March 23, 2006); 261.4(g); 261.5; 261.6 (except (a)(5)); 261.7; 261.8; 261.9; 261.10; 261.11; 261.20 through 261.24; 261.30 through 261.33; 261.35; 261.39, 261.40, 261.41, Appendices I, VII and VIII.

Section 262—Standards Applicable to Generators of Hazardous Waste—262.10 (except 262.10(d)); 262.11; 262.12; 262.13 (except 262.13(c)); 262.20 (except reserved provision); 262.21; 262.22; 262.23; 262.24 (except 262.24(d)); 262.27; 262.30; 262.31 through 262.33; 262.34 (except 262.34(j)–(l)); 262.35 (except the phrase ''and the requirements of § 262.13(d) and § 263.10(d)'' at 262.35(a)(2)); 262.40; 262.41 (except references to PCBs) (January 21, 1996); 262.42; 262.43; 262.50 through 262.58; 262.60 (except 262.60(e)); 262.70; 262.200 through 262.216; and Appendix I.

Section 263—Standards Applicable to Transporters of Hazardous Waste—263.10 (except 263.10(d) and (e)), 263.11, 263.12, 263.20 (except 263.20(g)(4) and reserved provision), 263.21, 263.22, 263.30 and 263.31.

Section 264—Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities—264.1 (except reserved provisions); 264.3; 264.4; 264.10; 264.11; 264.12 (except 264.12(a)(2)); 264.13 through 264.19; 264.20(a) through (c); 264.30 through 264.35; 264.37; 264.50 through 264.56; 264.70; 264.71 (except 264.71(a)(3), (d) and (e)); 264.72; 264.73 (except 264.73(b)(18) and (b)(19)); 264.74; 264.75 (except first occurrence of 264.75(a) through (d) and 264.75(g)); 264.75(g) (January 21, 1996); 264.75(h) (January 21, 1996); 264.76(a); 264.77; 264.90 through 264.101; 264.110 through 264.120; 264.140; 264.141 (except the definition of ''captive insurance'' at 264.141(f)); 264.142; 264.143 (except the last sentence of 264.143(e)(1)); 264.144; 264.145 (except the last sentence of 264.145(e)(1)); 264.146; 264.147 (except the last sentences of 264.147(a)(1)(i) and 264.147(b)(1)(ii) and reserved provision); 264.148; 264.151; 264.170 through 264.174; 264.175 (except reserved provision); 264.176 through 264.179; 264.190 through 264.200; 264.220 through 264.223; 264.226 through 264.232; 264.250 through 264.254; 264.256 through 264.259; 264.270 through 264.273; 264.276; 264.278 through 264.283; 264.300 through 264.304; 264.309; 264.310; 264.312(a); 264.313; 264.314 (except 264.314(a)(2) and (a)(3)) (June 13, 2010); 264.315; 264.316 (except 264.316(b)); 264.316(b) (June 13, 2010); 264.317; 264.340 through 264.345; 264.347 (March 23, 2006); 264.351; 264.550, 264.551; 264.552 (except 264.552 (a)(3)(ii)–(iv)); 264.552 (a)(3)(ii)–(iv) (June 13, 2010); 264.553 through 264.555 (except reserved provision); 264.570 through 264.575; 264.600 through 264.603; 264.1030 through 264.1036; 264.1050 through 264.1061(except reserved provision); 264.1062 (June 13, 2010); 264.1063 through 264.1065; 264.1080 through 264.1090; 264.1100 through 264.1102; 264.1200; 264.1201; 264.1202; Appendix I; and Appendices IV, V and IX.

Section 265—Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities—265.1 (except 265.1(c)(4) and reserved provisions); 265.4, 265.10, 265.11, 265.12 (except 265.12(a)(2)), 265.13, 265.14, 265.15 (except the phrase '', except for Performance Track member facilities . . . as described in paragraph (b)(5) of this section'' at 265.15(b)(4) and 265.15(b)(5)); 265.16 (except 265.16(a)(4)); 265.17 through 265.19; 265.30 through 265.35; 265.37; 265.50; 265.51; 265.52 (except the last three sentences of 265.52(b)); 265.53 through 265.55; 265.56 (except 265.56(i)); 265.56(i) and (j) (March 23, 2006); 265.70, 265.71 (except 265.71(a)(3), (d) and (e)), 265.72; 265.73 (March 23, 2006); 265.74; 265.75 (except 265.75(g)); 265.75(g) and (h) (January 21, 1996); 265.76(a); 265.77; 265.90 (except the last sentence of 265.90(d)(1), and in 265.90(d)(3) the phrase ''and place it in the facility's . . . closure of the facility''); 265.91; 265.92; 265.93 (except the last sentence of 265.93(d)(2) and the last sentence of 265.93(d)(5)); 265.94; 265.110 through 265.112; 265.113 (except 265.113(e)(5)); 265.113(e)(5) (March 23, 2006); 265.114 through 265.121; 265.140, 265.141 (except the definition of ''captive insurance'' at 265.141(f)); 265.142; 265.143 (except the last sentence of 265.143(d)(1) and ''qualified'' before ''Arkansas-registered Professional Engineer'' in 265.143(h)); 265.144; 265.145; 265.146; 265.147 (except the last sentences of 265.147(a)(1) and 265.147(b)(1), ''qualified'' before ''Arkansas-registered Professional Engineer'' in 265.147(e) and reserved provision); 265.148; 265.170 through 265.173; 265.174 (March 23, 2006); 265.176; 265.177, 265.178, 265.190; 265.191; 265.192; 265.193(a) (March 23, 2006); 265.193(b) through 265.193(i); 265.194; 265.195 (March 23, 2006); 265.196 through 265.200; 265.201 (March 23, 2006); 265.202; 265.220; 265.221 (except 265.221(a)); 265.221(a) (March 23, 2006); 265.222; 265.223 and 265.224 (March 23, 2006); 265.225; 265.226; 265.228 through 265.231; 265.250 through 265.258; 265.259(a) (March 23, 2006); 265.259(b) and (c); 265.260; 265.270; 265.272; 265.273; 265.276; 265.278; 265.279; 265.280 (except the word ''qualified'' before ''Arkansas-registered professional engineer'' in 265.180(e)); 265.281; 265.282; 265.300; 265.301(a) (March 23, 2006); 265.301(b) through 265.301(i); 265.302; 265.303(a) (March 23, 2006); 265.303(b) and (c); 265.304; 265.309; 265.310; 265.312(a); 265.313; 265.314(a) (except 265.314(a)(2) and (a)(3)) (March 23, 2006); 265.314(b) (except the last sentence) (March 23, 2006); 265.314(c) through (g) (March 23, 2006); 265.315; 265.316; 265.340; 265.341; 265.345; 265.347; 265.351; 265.352; 265.370; 265.373; 265.375; 265.377; 265.381; 265.382; 265.383; 265.400 through 265.406; 265.430; 265.440 through 265.445; 265.1030 through 265.1035 (except reserved provision); 265.1050 (except reserved provision); 265.1051 through 265.1060; 265.1061 (March 23, 2006); 265.1062 (March 23, 2006); 265.1063; 265.1064; 265.1080 through 265.1090; 265.1100 (March 23, 2006); 265.1101 (except (c)(2) and the phrase '', except for Performance Track . . . director'' and the last sentence in 265.1101(c)(4)); 265.1101 (c)(2) (March 23, 2006); 265.1102; 265.1200; 265.1201; 265.1202; Appendix I; and Appendices III through VI.

Section 266—Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities—266.20 through 266.23; 266.70 (except 266.70(b)(3)); 266.80 (except items 6 and 7 to the 266.80(a) table); 266.100; 266.101; 266.102 (except 266.102(e)(10)); 266.102(e)(10) (March 23, 2006); 266.103 (except 266.103(d) and (k)); 266.103(d) and (k) (March 23, 2006); 266.104 through 266.112; 266.200 through 266.206; 266.210; 266.220; 266.225; 266.230; 266.235; 266.240; 266.245; 266.250; 266.255; 266.260; 266.305; 266.310; 266.315; 266.320; 266.325; 266.330; 266.335; 266.340; 266.345; 266.350; 266.355; 266.360; and Appendices I through XIII.

Section 267—Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit—267.1 through 267.3; 267.10 through 267.18; 267.30 through 267.36; 267.50 through 267.58; 267.70 through 267.76; 267.90; 267.101; 267.110 through 267.113; 267.115 through 267.117; 267.140 through 267.143; 267.147 through 267.151; 267.170 through 267.177; 267.190 through 267.204; and 267.1100 through 267.1108.

Section 268—Land Disposal Restrictions—268.1; 268.2 through 268.4, 268.7(a) (except 268.7(a)(1) and reserved provisions); 268.7(a)(1) (March 23, 2006); 268.7(b) (except 268.7(b)(6)); 268.7(b)(6) (March 23, 2006); 268.7(c) through (e); 268.9(a) (except second sentence); 268.9(b) and (c); 268.9(d) introductory paragraph (March 23, 2006); 268.9(d) (1) and (2) (except reserved provision); 268.13; 268.14; 268.20, 268.30 through 268.39; 268.40 (except 268.40(e)(1)–(4) and 268.40(i)); 268.41; 268.42 (except 268.42(b)); 268.43; 268.45; 268.46; 268.48; 268.49; 268.50; and Appendices III, IV, VI through IX and XI.

Section 270—Administered Permit Programs: The Hazardous Waste Permit Program—270.1; 270.2; 270.3 (except reserved provision); 270.4; 270.5; 270.6; 270.7 (except 270.7(h) and (j)); 270.10 (except 270.10(e)(8) and (k)); 270.11 through 270.33; 270.40; 270.41; 270.42 (except 270.42(l)); 270.42 Appendix I (except entry at item O); 270.43; 270.50; 270.51; 270.60 (except reserved provision); 270.61 through 270.68; 270.70 through 270.73; 270.79; 270.80; 270.85; 270.90; 270.95; 270.100; 270.105; 270.110; 270.115; 270.120; 270.125; 270.130; 270.135; 270.140; 270.145; 270.150; 270.155; 270.160; 270.165; 270.170; 270.175; 270.180; 270.185; 270.190; 270.195; 270.200; 270.205; 270.210; 270.215; 270.220; 270.225; 270.230; 270.235; 270.250; 270.255; 270.260; 270.265; 270.270; 270.275; 270.280; 270.290; 270.300; 279.305; 270.310; 270.315; and 270.320.

Section 273—Standards for Universal Waste Management—273.1 through 273.4;

273.5 (except 273.5(b)(3)); 273.6; 273.8 through 273.20; 273.30 through 273.40; 273.50 through 273.56; 273.60; 273.61; 273.62; 273.70 (except 273.70 (d)); 273.80; and 273.81.

Section 279—Standards for the Management of Used Oil—279.1; 279.10; 279.11; 279.12; 279.20 through 279.24; 279.30; 279.31; 279.32; 279.40 through 279.47; 279.50 through 279.67; 279.70 through 279.75; 279.80; 279.81; and 279.82(a).

Copies of the Arkansas regulations that are incorporated by reference are available from the Arkansas Department of Environmental Quality Web site at *http://www.adeq.state.ar.us/regs/default.htm* or the Public Outreach Office, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118–5317, Phone: (501) 682–0923.

* * * * *

[FR Doc. 2016–01657 Filed 1–28–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15, 27, 73, and 74

[GN Docket No. 12–268, FCC 15–140]

Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (''Commission'' or ''FCC'') defines when and in what areas 600 MHz Band wireless licensees will be deemed to ''commence operations'' for the purpose of establishing when secondary and unlicensed users must cease operations and vacate the 600 MHz Band.

DATES: The rules will become effective February 29, 2016, except for §§ 15.713(b)(2)(iv), 15.713(j)(10) introductory text, 15.715(n), and 73.3700(g)(4)(i), (g)(4)(ii)(B), (g)(4)(iii), and (g)(4)(v), which contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act. The Commission will publish a document in the **Federal Register** announcing the effective date for those rules.

FOR FURTHER INFORMATION CONTACT: Paul Malmud of the Wireless Telecommunications Bureau, Broadband Division, at 202–418–0006 or *paul.malmud@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions,* GN Docket No. 12–268, FCC 15–140, adopted October 21, 2015 (''*Commencing Operations R&O''*). §§ 15.713(b)(2)(iv), 15.713(j)(10) introductory text, 15.715(n), and 73.3700(g)(4)(i), (g)(4)(ii)(B), (g)(4)(iii), and (g)(4)(v) of the rules contain previously adopted new or modified information collection requirements that the Commission previously stated would require approval by the Office of Management and Budget under the Paperwork Reduction Act. 79 FR 48539 (Aug. 15, 2014); and 80 FR 73070 (Nov. 23, 2015). The Commission will publish a notice in the **Federal Register** announcing the effective date for these rules, which will be different than the notice for the other adopted rules. The complete text of this document is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 200554. It is also available on the Commission's Web site at *http://wireless.fcc.gov,* or by using the search function on the ECFS Web page at *http://www.fcc.gov/cgb/ecfs/.* 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 telephone the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 18–0432 (TTY).

Supplemental Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''), an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated in the Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions 77 FR 69934, Nov. 21, 2012 (''*Incentive Auction NPRM''*). The Commission sought written public comment on the proposals in the Incentive Auction NPRM, including comment on the IRFA. The Commission subsequently incorporated a Final Regulatory Flexibility Analysis (''FRFA'') in *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions* 79 FR 48442, (Aug. 15, 2014) (''*Incentive Auction R&O''*).This Supplemental FRFA conforms to the RFA and incorporates by reference the FRFA in the *Incentive Auction R&O.* It reflects changes to the Commission's rules arising from defining ''commence operations'' in this *Commencing Operations R&O.*

Report to Small Business Administration

The Commission will send a copy of this *Commencing Operations R&O,* including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Paperwork Reduction Act

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13.

Congressional Review Act

The Commission will send a copy of the *Commencing Operations R&O,* including this Supplemental FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. A copy of the *Commencing Operations R&O* and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**.

I. Introduction

1. In the *Incentive Auction R&O,* the Commission adopted transition rules that permit low power television and TV translator (''LPTV'') stations, fixed broadcast auxiliary service operations (''BAS''), and unlicensed white space devices (hereinafter, collectively, ''secondary and unlicensed users'') to continue operating in the 600 MHz Band, under specified conditions, after the spectrum has been licensed to new 600 MHz Band wireless licensees. The secondary and unlicensed users must vacate the band once the wireless licensee ''commences operations'' in its licensed 600 MHz spectrum, or on a date certain.[1] In this *Commencing Operations R&O,* the Commission defines when and in what areas 600 MHz Band wireless licensees will be deemed to ''commence operations'' for the purpose of establishing when the secondary and unlicensed users must cease operations and vacate the 600 MHz Band in those areas. Specifically,

[1] *See Incentive Auction R&O.* This *Commencing Operations R&O* only addresses the requirements relating to secondary and unlicensed users vacating the 600 MHz Band where 600 MHz Band wireless licensees commence operations. Secondary and unlicensed users also may be required to vacate portions of the 600 MHz Band to the extent the auction system assigns a television station to a channel in the 600 MHz Band. *See Broadcast Incentive Auction Scheduled to Begin March 29, 2016; Procedures for Competitive Bidding in Auction 1000, Including Initial Clearing Target Determination, Qualifying to Bid, and Bidding in Auctions 1001 (Reverse) and 1002 (Forward),* 80 FR 61918, Oct. 14, 2014.

as discussed below, the *Commencing Operations R&O* establishes that a 600 MHz Band wireless licensee commences operations when it conducts site commissioning tests. The *Commencing Operations R&O* also creates a limited exception to this rule to permit 600 MHz Band wireless licensees to conduct first field application testing in advance of site commissioning tests under certain circumstances.

II. Discussion

2. Based on our review of the record and as explained below in greater detail, the Commission determines that a 600 MHz Band wireless licensee ''commences operations'' when it conducts site commissioning tests. In this context, the term is defined to include site activation and commissioning tests using permanent base station equipment, antennas and/or tower locations as part of its site and system optimization in the area of its planned commercial service infrastructure deployment. It is at this juncture that a wireless licensee moves from construction to testing its system, and needs unfettered access to its licensed spectrum to optimize its network in advance of launching commercial service to customers. In addition, the *Commencing Operations R&O* adopts the proposal that a licensee's notification of commencement will cover the area served by its commercial service infrastructure deployment. It also creates a limited exception to these rules to permit 600 MHz Band wireless licensees to conduct first field application testing in advance of site commissioning testing, under certain circumstances. The Commission's decision balances the policy goal of providing an orderly transition process for secondary and unlicensed users in the band with that of providing 600 MHz Band wireless licensees with exclusive access to their spectrum as soon as they are ready to deploy wireless service in the band.

A. Defining the Timing of Commencing Operations

3. Many months of preparatory work go into planning and deploying a wireless broadband system. As noted by wireless industry commenters, they must engage in extensive construction and testing of equipment and service before licensees can launch commercial service in a particular market. When a wireless licensee establishes permanent base stations, with permanent antennas, and/or tower locations, the licensee will need access to its licensed spectrum to perform site activation and commissioning tests to ensure that the base station performs as expected. The licensee must analyze multiple factors, including but not limited to signal generation, power measurement, frequency error, unwanted emissions, occupied bandwidth, adjacent-channel leakage, and spurious emissions as part of this testing. In sum, the start of the site commissioning testing phase requires the use of licensed frequencies for committed sites in anticipation of bringing up a wireless broadband system in an area. Therefore, a 600 MHz Band wireless licensee ''commences operations'' when it begins its site commissioning tests.

4. As many commenters point out, choosing site commissioning testing as the benchmark for defining commencement of operations provides a relevant and sustainable sign that 600 MHz Band wireless licensees are committed to deploying service in a particular area and will begin providing commercial service in the immediate term. Furthermore, it will minimize, to the extent possible, the time between cessation of secondary and unlicensed use and initiation of commercial wireless service. This takes the interests of secondary and unlicensed users into account but still provides uncompromised access to the 600 MHz Band by wireless licensees when they need it. Accordingly, the proposed definition of ''commencing operations'' appropriately balances the competing interests that must be considered in transitioning the 600 MHz Band to wireless use.

5. The Commission declines to adopt AT&T, CTIA, and the Competitive Carriers Association's (''CCA'') proposal to define commencement of operations in the 600 MHz Band to include the early stages of pre-deployment. These commenters propose that secondary and unlicensed users should clear the 600 MHz Band as early as the initial transmission of a radio frequency (''RF'') signal by a wireless licensee under its 600 MHz Band license. In support, CTIA and CCA argue that early pre-deployment testing of equipment and services would be best run in actual operating conditions (*i.e.,* without the presence of secondary users) on the wireless carrier's licensed frequencies. CTIA also opines that if licensees must commit to permanent base station equipment and permanent antenna locations as a prerequisite to commencing operations, carriers will be required to make critical investments before they are able to ascertain their needs. CTIA argues that the unique deployment challenges (such as the presence of broadcast television stations in some areas) for wireless licensees in the 600 MHz Band also justify removal of secondary and unlicensed signals from a licensed area as quickly as possible.

6. Permitting wireless carriers to displace incumbent secondary and unlicensed users at the first RF transmission or in the earliest stages of pre-deployment would be inconsistent with the balancing of interests that was established as part of the transition plan for the 600 MHz Band. The Commission agrees that 600 MHz Band wireless licensees require actual fully modulated waveforms at full operational power, on their specific licensed frequencies, when they are ready to test specific functionality (such as handover and out of band emissions), adjust site coverage, and minimize interference between sites. This requirement is the basis for our definition of commence operations. Other tests that occur earlier in the deployment process, however, such as drive testing for site evaluation and propagation model calibration, typically do not require use of the licensee's specific licensed frequencies to produce accurate results. For example, if an LPTV station is located within an anticipated coverage area, a 600 MHz Band wireless licensee can perform these early pre-deployment tests on adjacent or nearby channels, or possibly using narrowband signals on the channel edge, without receiving interference.

7. The Commission also declines to adopt the proposals of the Wireless Internet Service Providers Association (''WISPA'') and Sennheiser Electric Corp. (''Sennheiser'') that commencement of operations should be tied to the actual start of commercial service to the public. According to WISPA, service to the public undergirds any justification for exclusivity and freedom from interference. Defining commencement of operations to mean actual launch of commercial service by the 600 MHz Band wireless licensee, however, would ignore the scope and nature of testing necessary to bring a complex network of sites into synchronized operation to provide seamless communications that meet users' commercial service quality expectations. As discussed above, once a 600 MHz Band wireless licensee has begun construction of permanent base stations in an area, the licensee needs access to its particular licensed frequencies to accurately assess the performance of these base stations and associated user equipment in an environment free from interference. As CCA describes, providers must conduct multiple facility tests before starting

operations, which must be repeated to ensure error- and interference free deployment. These tests are necessary for the licensee to resolve all technical issues prior to the licensed spectrum being used for commercial service. Given that such testing is essential to the provision of commercial quality service, tying commencement of operations to actual launch of commercial service, as suggested by WISPA and Sennheiser, would undermine the needs of the 600 MHz Band licensees and could potentially hinder delivery of service to the public.

8. AT&T and CTIA also argue that the Spectrum Act precludes allowing secondary and unlicensed users to operate in the licensed 600 MHz Band after the spectrum is reallocated for wireless services. The Commission is not persuaded by these arguments. As explained in the *Incentive Auction R&O,* the Spectrum Act reinforces the Commission's established spectrum management authority, under which it was decided to allow secondary and unlicensed use of the 600 MHz Band by LPTV stations, BAS, and white space devices on a non-interfering basis for set periods of time, ending with the post-auction transition period or when 600 MHz Band wireless licensees provide the requisite notice that they intend to commence operations in areas of their geographic licenses where there is a likelihood of receiving harmful interference. Our decision here merely finalizes the process for determining when secondary and unlicensed users need to vacate the 600 MHz Band in areas where a 600 MHz Band wireless licensee needs the spectrum. Nothing in the transition framework that was adopted in the *Incentive Auction R&O,* or the decisions reached in this *Commencing Operations R&O* is inconsistent with the Spectrum Act.

B. Area Served Under Commencing Operations Definition

9. The Commission adopts the proposal that a licensee's notification of commencement of operations covers the area served by its planned commercial service infrastructure deployment. The licensee's commercial service deployment area is determined by the specific locations of the base stations it will construct to provide contiguous coverage to its customers in the area; the outermost base station sites form the boundary of the area. Each site included within this boundary must be capable of handing over mobile traffic to at least one other site within the boundary on the same licensed frequency. Many commenters support defining the area covered by a licensee's notification of commencement in a way that allows secondary and unlicensed users access to spectrum that might otherwise lay fallow until wireless operations begin in all geographic areas under a license rather than just in certain areas.

10. We decline to adopt the proposals of AT&T, CCA, and CTIA that would require secondary and unlicensed users to vacate the entire Partial Economic Area (''PEA'') when a 600 MHz Band wireless licensee commences operations in just one particular portion of a PEA. These commenters argue that granting licensees access to the entire PEA will free them of the burden of continually having to update data on the scope of their deployment merely to obtain interference protection over a changing deployment area. The Commission is not persuaded that this decision herein will impose an undue burden on 600 MHz Band wireless licensees. While a 600 MHz Band wireless licensee may need to provide notice for new areas, the rules will permit these licensees to plan for, and roll out service to, large or small areas of deployment, as they see fit, based on their business plans and needs, rather than predefined geographic boundaries. Although allowing 600 MHz Band wireless licensees exclusive access to their entire licensed area upon their first RF transmission might be less burdensome, it could result in the spectrum lying fallow for a longer period of time than is necessary. Instead, this decision maintains the balance struck in the *Incentive Auction R&O* to promote access to the 600 MHz Band for wireless licensees when and where they need it while providing an orderly transition process for secondary and unlicensed users that currently are serving consumer needs.

11. Further, while a license issued for the 600 MHz Band does include the right to exclusive use, it does not include the immediate right to exclude for the entire license area. 600 MHz Band wireless licensees will have all of the rights and obligations conferred by the Commission's *Incentive Auction R&O,* including the right to exclusive use in areas where the licensee commences operations and provides the requisite notification to secondary and unlicensed users prescribed by the transition procedures adopted therein. Until the licensee commences operations in areas of their geographic licenses where there is a likelihood of receiving harmful interference, secondary and unlicensed users retain their right to operate in the 600 MHz Band. The approach regarding the area to be covered by a 600 MHz Band wireless licensee's notification is consistent with the Commission's prior spectrum management decisions, and its other decisions regarding the transition process in the *Incentive Auction R&O.*

C. First Field Application Testing

12. Although the wireless industry generally opposed the Commission's proposed definition of commencement of operations, it has, through CTIA, suggested ''a compromise'' that would modify this definition to include ''market testing'' in addition to site commissioning testing. CTIA describes market testing as a phase prior to site commissioning in which the wireless licensee deploys prototype equipment in a limited number of markets to determine if the equipment actually performs as expected in the real-world (as compared to laboratory performance) and if the propagation models and software that have been developed accurately model the capabilities of the new radiofrequency equipment. CTIA states that this testing is conducted in a limited number of markets—typically . . . only a fraction of the areas where full commercial launch will occur—and typically within only a portion of the market area—a cluster or clusters of base station sites. More specifically, CTIA states that such testing usually involves two to six test areas, comprising from as little as 10 sites to 200–300 sites, covering generally no more than 1,000 square miles. CTIA asserts that if 600 MHz Band wireless licensees are not able to conduct market testing of new equipment, software, and possibly technology on their licensed frequencies without the presence of secondary and unlicensed users, deployment of mobile broadband services in the band will be delayed, which it argues would be contrary to Congress's paramount objective in granting the FCC authority to hold the incentive auction.

13. Subsequently, AT&T responded to Commission staff inquiries about how it conducts what it terms first field application (''FFA'') testing. According to AT&T, FFA testing for a new spectrum band consists of three main areas of evaluation—network hardware, software, and devices [and] . . . incorporates as many different combinations of morphologies (rural, suburban and urban) and network configurations as practicable, to emulate the actual environments found in the network. AT&T further explains that base station hardware testing covers all possible combinations of baseband and radiohead configurations at a cluster of 20–30 sites to ensure the hardware is working as designed and is compatible with existing network facilities. Testing

how devices interoperate with hardware and software in the new band typically requires a cluster of 50–150 sites. Finally, AT&T states that software testing to ensure that new hardware and devices are fully operational requires the largest testing area, ''as many as 200–300 sites, to cover as many possible combinations of morphology and hardware and software configurations'' as exist in a nationwide network. AT&T indicates that it performs FFA testing in areas that are among the first areas where it plans to deploy commercial service, and asserts FFA testing in 600 MHz will be critical because there has been no prior commercial wireless deployment in the band.

14. As an initial matter, the terminology that the wireless industry uses to refer to this type of testing appears to vary from operator to operator. For convenience, AT&T's term—first field application—which conveys more precisely than other terms the nature and scope of this testing will be used. The FFA testing that CTIA and AT&T describe as being essential to timely deployment of 600 MHz Band wireless service would not fit squarely within the definition of ''commencing operations'' in this *Commencing Operations R&O,* because FFA testing may involve equipment, antennas and locations that are not permanent. The Commission declines to revise our general definition of when a carrier will be deemed to ''commence operations'' as CTIA recently advocates. Nevertheless, it is in the public interest to permit 600 MHz Band wireless licensees to undertake FFA testing on their licensed frequencies in limited areas free from potential interference from secondary and unlicensed users, because such testing will speed deployment of the 600 MHz Band and accelerate the use of these frequencies by 600 MHz wireless licensees to provide service to consumers. The limited exception established for FFA testing will not upset the balance between promoting ready access to the 600 MHz Band for wireless licensees while providing an orderly transition process for secondary and unlicensed users.

15. Therefore, the Commission is providing a limited exception to the rule defining commencement of operations, to permit 600 MHz Band licensees to conduct FFA testing on their licensed frequencies in advance of site activation and commissioning testing without the presence of secondary and unlicensed users. Based on information presented by AT&T and on FCC staff network engineering expertise, the Commission expects that FFA testing pursuant to this exception would be done in a small number of areas, with the parameters presented as typical by CTIA constituting the upper bound on what the Commission would consider reasonable. In most cases, FFA testing should require fewer test areas, fewer sites,[2] and cover more restricted geographic areas. Further, the Commission expects that FFA testing would be done only in license areas where 600 MHz Band wireless licensees expect to rapidly deploy service to end users, and that this deployment will follow the FFA testing phase as soon as possible. In the areas in which a 600 MHz Band licensee intends to take advantage of this exception, it must notify secondary and unlicensed users of the need to vacate the spectrum by following the transition procedures adopted in the *Incentive Auction R&O* and the Amendment of Part 15 of the Commission's Rules for Unlicensed Operations in the Television Bands, Repurposed 600 MHz Band, 600 MHz Guard Bands and Duplex Gap, and Channel 37 80 FR 73043, (Nov. 23, 2015) (''*Part 15 Report and Order*''). In portions of the license area that do not contain sites involved in the licensee's FFA testing, secondary and unlicensed users will be allowed to continue operating until the close of the transition period or when the licensee notifies them of its intent to commence operations as defined in this *Commencing Operations R&O.*

D. Other Issues

16. We reject as untimely requests for reconsideration of several commenters to modify the transition procedures established in the *Incentive Auction R&O.*[3] The Commission previously determined in the *Incentive Auction R&O* the circumstances under which secondary and unlicensed users may continue operating in the 600 MHz Band after the spectrum has been licensed for wireless services and set forth specific requirements for when those secondary and unlicensed users must vacate the band. In addition, the Commission adopted procedures that wireless licensees must use to notify secondary and unlicensed users that they are commencing operations. None of the aforementioned parties filed petitions for reconsideration of our decisions on the issues they now seek to have modified. The Commission rejects these requests as untimely petitions for reconsideration. With respect to CTIA's concern that competitively sensitive information provided to white spaces database administrators needs to be treated as confidential, this issue has already been addressed in the *Part 15 Report and Order.*

17. Finally, the Commission is redesignating Section 27.19 of the Commission's rules as Section 27.1321 and adding two undesignated center headings to Subpart N (600 MHz Band) of Part 27. Section 27.19 applies only to 600 MHz Band licensees and therefore should be included in Subpart N, which is the general subtitle for the 600 MHz Band. The Commission is also adding the additional undesignated center headings to provide greater clarity to Subpart N. None of these rule changes require prior notice and opportunity for comment under the Administrative Procedure Act (APA) because Section 553(b)(3)(B) of the APA provides exceptions to the notice-and-comment requirement when, among other things, the agency finds for good cause that the notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. These rule changes are non-substantive and

[2] In particular, it is our understanding that in many cases, FFA software testing, which CTIA and AT&T say typically involves 200–300 sites, may take place without implicating radiofrequency transmissions. With respect to deployment of the 600 MHz Band, the Commission expects that 600 MHz Band wireless licensees conducting software testing in such situations would not notify secondary and unlicensed users to vacate the band for these tests.

[3] Specifically, AT&T argues that the Commission should require that all secondary and unlicensed users cease operations by the end of the 39-month Post-Auction Transition Period or at an earlier date if a licensee provides 120 days' notice that it intends to commence operations. Comments of AT&T at 3–4 (filed May 1, 2015). AT&T also requests an expedited enforcement mechanism to clear unlicensed or secondary users that fail to vacate the spectrum within the applicable timeframe. *Id.* at 10. CTIA asks that wireless licensees be granted control of the process for, and details of, notice of commencement of service. Comments of CTIA—The Wireless Association at 9 (filed May 1, 2015). CP Communications and Shure requested that licensed professional microphone users be treated like LPTV stations and allowed to continue operating indefinitely in the 600 MHz Band until they receive advance written notice that a 600 MHz Band licensee intends to commence operations and that the microphone user will cause interference to that wireless provider. Comments of CP Communications, LLC at 2 (filed May 1, 2015); Reply Comments of Shure Incorporated at 3 (filed May 18, 2015). Shure also asks that a wireless licensee be required to certify that it has begun site commissioning tests and that all power systems and backhaul connectivity are installed and operational. Reply Comments of Shure Incorporated at 7 (filed May 18, 2015). Finally, WISPA argues that a sixty day advance notification period should be provided to unlicensed users before they must vacate the 600 MHz Band. Comments of the Wireless Internet Service Providers Association at 4 (filed May 1, 2015). *See also* Reply Comments of Open Technology Institute at New America and Public Knowledge at 19 (filed May 18, 2015) (''A substantial but not overly long notification period [of 30 days] benefits both licensees and unlicensed operators.'').

editorial in nature. As such, they constitute routine, ''clean-up'' matters that entail no substantive decisions of any consequence or significance to industry or the general public. Accordingly, it is unnecessary, within the meaning of Section 553(b)(3)(B), to provide notice and opportunity for comment before adopting these rule revisions. For the same reason, there is good cause to make these non-substantive, editorial revisions of the rules.

III. Supplemental Final Regulatory Flexibility Analysis

18. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''), an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated in Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions 77 FR 69934, Nov. 21, 2012 (''*Incentive Auction NPRM*''). The Commission sought written public comment on the proposals in the *Incentive Auction NPRM,* including comment on the IRFA. The Commission subsequently incorporated a Final Regulatory Flexibility Analysis (''FRFA'') in the *Incentive Auction R&O.* This Supplemental FRFA conforms to the RFA and incorporates by reference the FRFA in the *Incentive Auction R&O.* It reflects changes to the Commission's rules arising from defining ''commence operations'' in this *Commencing Operations R&O.*

A. Need for, and Objectives of, the Order

19. In the *Incentive Auction R&O,* the Commission adopted transition rules that permit low power television (''LPTV''), TV translator stations, fixed broadcast auxiliary service operations (''BAS''), and unlicensed white space devices (hereinafter, collectively, ''secondary and unlicensed users'') to continue operating in the 600 MHz Band after the spectrum has been licensed for wireless services (hereinafter ''600 MHz Band''). Those secondary and unlicensed users must vacate once the wireless licensee ''commences operations'' in its licensed 600 MHz spectrum, or a date certain. Thereafter, the Commission issued the *Comment Sought on Defining Commencement of Operations in the 600 MHz Band 80 FR 18185, (Apr. 3, 2014) (''Commencing Operations PN'')* and sought comment on the appropriate definition of ''commence operations'' in light of the Commission's objective to accomplish an orderly transition of unlicensed and secondary users out of the 600 MHz Band. By this *Commencing Operations R&O,* the Commission defines when and in what areas 600 MHz Band wireless licensees will be deemed to ''commence operations'' for the purpose of establishing when those secondary and unlicensed operators must cease operations and vacate the 600 MHz Band.

20. The *Commencing Operations R&O* affirms the Commission's commitment to implement a transition process that promotes ready access to the repurposed spectrum by 600 MHz Band wireless licensees when and where they need it, while at the same time providing for an orderly transition process for secondary and unlicensed users that currently are serving various important consumer needs. Specifically, in the *Commencing Operations R&O,* the Commission defines ''commence operations'' as when a 600 MHz Band licensee begins pre-launch site activation and commissioning tests using permanent base station equipment, antennas and/or tower locations as part of its site and system optimization in the area of its planned commercial service infrastructure deployment (hereinafter ''site commissioning tests''). It is at this juncture that a wireless licensee moves from construction to testing its system, and needs unfettered access to its licensed spectrum to optimize its network in advance of launching commercial service to customers. In addition, the Commission adopts the proposal that a licensee's notification of commencement will cover the area served by its commercial service infrastructure deployment. It also creates a limited exception to these rules to permit 600 MHz Band wireless licensees to conduct first field application testing in advance of site commissioning testing using their licensed frequencies in limited areas. Our decision balances the policy goal of providing an orderly transition process for secondary and unlicensed users in the band with that of providing 600 MHz Band wireless licensees with exclusive access to their spectrum as soon as they are ready deploy wireless service in the band.

B. Summary of Significant Issues Raised by Public Comments

21. No commenters directly responded to the IRFA in the Incentive Auction NPRM. Nonetheless, the FRFA in the *Incentive Auction R&O* addressed concerns in the record about the impact on small businesses of various auction design issues. No commenters raised concerns regarding the impact on small businesses of the proposed definition of ''commence operations'' in the *Commencing Operations PN.* Furthermore, the SBA Chief Counsel filed no comments in this matter.

C. Description and Estimate of the Number of Small Entities To Which Rules Will Apply

22. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the adopted rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' small organization,'' and ''small government jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

23. As noted, the Commission incorporated a FRFA into the *Incentive Auction R&O.* In that analysis, the Commission described in detail the various small business entities that may be affected by the final rules, including wireless telecommunications carriers, manufacturers of unlicensed devices, and television broadcasting. This *Commencing Operations R&O* amends the final rules adopted in the Incentive Auction R&O affecting wireless telecommunications carriers, manufacturers of unlicensed devices, and television broadcasting. This Supplemental FRFA incorporates by reference the description and estimate of the number of small entities from the FRFA in the *Incentive Auction R&O.*

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

24. In Section D of the FRFA, incorporated into the Incentive Auction R&O, the Commission described in detail the projected recordkeeping, reporting, and other compliance requirements for small entities arising from the rules adopted in the *Incentive Auction R&O.* This Supplemental FRFA incorporates by reference the requirements described in Section D of the FRFA. Moreover, in this *Commencing Operations R&O,* the Commission is not requiring any additional reporting, recordkeeping, or other compliance requirements for small entities other than those requirements that were already required by the *Incentive Auction R&O.*

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

25. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities. The Commission has minimized the significant economic impact on small entities because no new reporting, recordkeeping, or other compliance requirements result from the *Commencing Operations R&O.* Rather, any such reporting, recordkeeping, or compliance requirements were adopted previously in the *Incentive Auction R&O.* Furthermore, alternative proposals in the record would have defined ''commence operations'' such that it would provide immediate access to the entire licensed area instead of just the area of planned commercial service infrastructure deployment. This proposal would have had a larger economic impact on secondary and unlicensed operations, many of which are small entities, because it would have required a greater number of such operations to vacate the 600 MHz Band sooner than is required under the definition of ''commence operations'' that is adopted in the *Commencing Operations R&O.* The Commission believes the definition of ''commence operations'' it has adopted strikes the appropriate balance by promoting ready access to the repurposed spectrum by 600 MHz Band wireless licensees when and where they need it, while at the same time providing for an orderly transition process for secondary and unlicensed users that currently are serving various important consumer needs.

F. Federal Rules That Might Duplicate, Overlap, or Conflict With the Rules

26. None.

List of Subjects in 47 CFR Parts 15, 27, 73, and 74

Communications equipment, Radio, Communications common carriers

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 15, 27, 73, and 74 as follows:

PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a, and 549.

■ 2. Section 15.236 is amended by revising paragraphs (c)(2) and (e)(2) to read as follows:

§ 15.236 Operation of wireless microphones in the bands 54–72 MHz, 76–88 MHz, 174–216 MHz, 470–608 MHz and 614–698 MHz.

* * * * *

(c) * * *

(2) Frequencies in the 600 MHz service band on which a 600 MHz service licensee has not commenced operations, as defined in § 27.4 of this chapter. Operation on these frequencies must cease no later than the end of the post-auction transition period, as defined in § 27.4 of this chapter. Operation must cease immediately if harmful interference occurs to a 600 MHz service licensee.

* * * * *

(e) * * *

(2) The following distances outside of the area where a 600 MHz service licensee has commenced operations, as defined in § 27.4 of this chapter.

Type of station	Separation distance in kilometers	
	Co-channel	Adjacent channel
Base	7	0.2
Mobile	35	31

* * * * *

■ 3. Section 15.707 is amended by revising paragraph (a)(5) to read as follows:

§ 15.707 Permissible channels of operation.

(a) * * *

(5) *600 MHz service band.* White space devices may operate on frequencies in the 600 MHz service band in areas where 600 MHz band licensees have not commenced operations, as defined in § 27.4 of this chapter.

* * * * *

■ 4. Section 15.711 is amended by revising paragraph (a) to read as follows:

§ 15.711 Interference avoidance methods.

* * * * *

(a) *Geo-location required.* White space devices shall rely on a geo-location capability and database access mechanism to protect the following authorized service in accordance with the interference protection requirements of § 15.712: Digital television stations, digital and analog Class A, low power, translator and booster stations; translator receive operations; fixed broadcast auxiliary service links; private land mobile service/commercial radio service (PLMRS/CMRS) operations; offshore radiotelephone service; low power auxiliary services authorized pursuant to §§ 74.801 through 74.882 of this chapter, including licensed wireless microphones; MVPD receive sites; wireless medical telemetry service (WMTS); radio astronomy service (RAS); 600 MHz service band licensees where they have commenced operations, as defined in § 27.4 of this chapter; and unlicensed wireless microphones used by venues of large events and productions/shows as provided under § 15.713(j)(9). In addition, protection shall be provided in border areas near Canada and Mexico in accordance with § 15.712(g).

* * * * *

■ 5. Section 15.712 is amended by revising paragraph (i) introductory text to read as follows:

§ 15.712 Interference protection requirements.

* * * * *

(i) *600 MHz service band:* Fixed and personal/portable devices operating in the 600 MHz Service Band must comply with the following co-channel and adjacent channel separation distances outside the defined polygonal area encompassing the base stations or other radio facilities deployed by a part 27 600 MHz Service Band licensee that has commenced operations, as defined in § 27.4 of this chapter.

* * * * *

■ 6. Section 15.713 is amended by revising paragraphs (b)(2)(iv) and (j)(10) introductory text to read as follows:

§ 15.713 White space database.

* * * * *

(b) * * *

(2) * * *

(iv) 600 MHz service band operations in areas where the part 27 600 MHz service licensee has commenced operations, as defined in § 27.4 of this chapter.

* * * * *

(j) * * *

(10) 600 MHz service in areas where the part 27 600 MHz band licensee has commenced operations, as defined in § 27.4 of this chapter:

* * * * *

■ 7. Section 15.715 is amended by revising paragraph (n) to read as follows:

§ 15.715 White space database administrator.

* * * * *

(n) Establish procedures to allow part 27 600 MHz service licensees to upload the registration information listed in § 15.713(j)(10) for areas where they have commenced operations, as defined in § 27.4 of this chapter, and to allow the removal and replacement of registration information in the database when corrections or updates are necessary.

* * * * *

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 8. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, 1451, and 1452, unless otherwise noted.

■ 9. Section 27.4 is amended by adding the definition ''*commence operations*'' in alphabetical order to read as follows:

§ 27.4 Terms and definitions.

* * * * *

Commence operations. A 600 MHz Band licensee is deemed to commence operations when it begins pre-launch site activation and commissioning tests using permanent base station equipment, antennas and/or tower locations as part of its site and system optimization in the area of its planned commercial service infrastructure deployment.

* * * * *

§ 27.19 [Redesignated as § 27.1321]

■ 10. Section 27.19 is redesignated as § 27.1321 and transferred from subpart B to subpart N.

Subpart N [Amended]

■ 11. Subpart N is amended by adding an undesignated center heading that precedes § 27.1300 to read as ''Competitive Bidding Provisions''

■ 12. Subpart N is amended by adding an undesignated center heading that precedes § 27.1320 to read as ''Coordination/Notification Requirements''

PART 73—RADIO BROADCAST SERVICES

■ 13. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

■ 14. Section 73.3700 is amended by revising paragraphs (g)(4)(i), (g)(4)(ii)(B), (g)(4)(iii), and (g)(4)(v) to read as follows:

§ 73.3700 Post-incentive auction licensing and operation.

* * * * *

(g) * * *

(4) * * *

(i) A wireless licensee assigned to frequencies in the 600 MHz band under part 27 of this chapter must notify low power TV and TV translator stations of its intent to commence operations, as defined in § 27.4 of this chapter, and the likelihood of receiving harmful interference from the low power TV or TV translator station to such operations within the wireless licensee's licensed geographic service area.

(ii) * * *

(B) Indicate the date the new wireless licensee intends to commence operations, as defined in § 27.4 of this chapter, in areas where there is a likelihood of receiving harmful interference from the low power TV or TV translator station; and

* * * * *

(iii) Low power TV and TV translator stations may continue operating on frequencies in the 600 MHz band assigned to wireless licensees under part 27 of this chapter until the wireless licensee commences operations, as defined in § 27.4 of this chapter, as indicated in the notification sent pursuant to this paragraph.

* * * * *

(v) Low power TV and TV translator stations that are operating on the UHF spectrum that is reserved for guard band channels as a result of the broadcast television incentive auction conducted under section 6403 of the *Spectrum Act* may continue operating on such channels until the end of the post-auction transition period as defined in § 27.4 of this chapter, unless they receive notification from a new wireless licensee pursuant to the requirements of paragraph (g)(4) of this section that they are likely to cause harmful interference in areas where the wireless licensee intends to commence operations, as defined in § 27.4 of this chapter, in which case the requirements of paragraph (g)(4) of this section will apply.

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 15. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 336 and 554.

■ 16. Section 74.602 is amended by revising paragraph (h)(5)(ii) introductory text to read as follows:

§ 74.602 Frequency assignment.

* * * * *

(h) * * *

(5) * * *

(ii) A wireless licensee assigned to frequencies in the 600 MHz band under part 27 of this chapter must notify the licensee of a TV STL, TV relay station, or TV translator relay station of its intent to commence operations, as defined in § 27.4 of this chapter, and the likelihood of harmful interference from the TV STL, TV relay station, or TV translator relay station to those operations within the wireless licensee's licensed geographic service area.

* * * * *

■ 17. Section 74.802 is amended by revising paragraph (f) to read as follows:

§ 74.802 Frequency assignment.

* * * * *

(f) *Operations in 600 MHz band assigned to wireless licensees under part 27 of this chapter.* A low power auxiliary station that operates on frequencies in the 600 MHz band assigned to wireless licensees under part 27 of this chapter must cease operations on those frequencies no later than the end of the post-auction transition period, as defined in § 27.4 of this chapter. During the post-auction transition period, low power auxiliary stations will operate on a secondary basis to licensees of part 27 of this chapter, *i.e.,* they must not cause to and must accept harmful interference from these licensees, and must comply with the distance separations in § 15.236(e)(2) of this chapter from the areas specified in § 15.713(j)(10) of this chapter in which a licensee has commenced operations, as defined in § 27.4 of this chapter.

[FR Doc. 2016–01282 Filed 1–28–16; 8:45 am]

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Proposed Rules

Federal Register
Vol. 81, No. 19
Friday, January 29, 2016

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 THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–125761–14]

RIN 1545–BM58

Nondiscrimination Relief for Closed Defined Benefit Pension Plans and Additional Changes to the Retirement Plan Nondiscrimination Requirements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that modify the nondiscrimination requirements applicable to certain retirement plans that provide additional benefits to a grandfathered group of employees following certain changes in the coverage of a defined benefit plan or a defined benefit plan formula. The proposed regulations also make certain other changes to the nondiscrimination rules that are not limited to these plans. These regulations would affect participants in, beneficiaries of, employers maintaining, and administrators of tax-qualified retirement plans.

DATES: Written or electronic comments and must be received by April 28, 2016. Outlines of topics to be discussed at the public hearing scheduled for May 19, 2016 at 10 a.m., must be received by April 28, 2016.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–125761–14), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–125761–14), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–125761–14).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Kelly C. Scanlon and Linda S. F. Marshall at (202) 317–6700; concerning submissions of comments, the hearing, and/or being placed on the building access list to attend the hearing, Oluwafunmilayo (Funmi) Taylor at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 401(a)(4) provides generally that a plan is a qualified plan only if the contributions or benefits provided under the plan do not discriminate in favor of highly compensated employees. In 1991, the Treasury Department and the IRS issued comprehensive regulations under section 401(a)(4) (TD 8360, 56 FR 47524) setting forth several alternative methods for testing compliance with this statutory requirement. In 1993, the Treasury Department and the IRS made significant amendments to those regulations (TD 8485, 58 FR 46773).

Under the section 401(a)(4) regulations, a plan is permitted to demonstrate that either the contributions or the benefits provided under the plan are nondiscriminatory in amount, regardless of whether the plan is a defined benefit or defined contribution plan. See § 1.401(a)(4)–1(b)(2). In order to test a defined contribution plan on the basis of benefits, the amounts allocated to employees under the plan must be converted to equivalent benefits. This conversion is done using an interest rate between 7.5% and 8.5%.[1] In addition, for purposes of section 401(a)(4), a defined benefit plan and a defined contribution plan are permitted to be aggregated and treated as a single plan pursuant to § 1.401(a)(4)–9, which refers to such an aggregated plan as a DB/DC plan.

After issuance of the final regulations, a new type of plan design developed. This type of plan is often referred to as a ''new comparability'' plan and is typically a defined contribution plan that provides higher allocation rates to an older and more highly compensated group of employees. This type of plan nonetheless satisfies the nondiscrimination requirements by testing the contributions on the basis of equivalent benefits because the conversion to equivalent benefits reflects assumed growth to normal retirement age and therefore results in relatively lower equivalent benefits for the highly compensated employees who are closer to normal retirement age. The Treasury Department and the IRS concluded that this type of plan was inconsistent with the intent behind the nondiscrimination regulations. Consequently, the Treasury Department and the IRS amended the section 401(a)(4) regulations in 2001 to require that a new comparability plan provide a higher minimum contribution to nonhighly compensated employees [2] in order for the plan to be eligible to demonstrate compliance with the nondiscrimination requirements of section 401(a)(4) on the basis of equivalent benefits (TD 8954, 66 FR 34535) (the ''2001 amendments'').

This higher minimum contribution requirement was directed at the new comparability plans. Other defined contribution plans that provide ''broadly available allocation rates'' or allocation rates that are ''based on a gradual age or service schedule'' are not subject to the higher minimum contribution requirement even if they demonstrate compliance with the nondiscrimination requirements of section 401(a)(4) on the basis of equivalent benefits.[3] In addition, under the 2001 amendments, defined benefit replacement allocations (''DBRAs'') may be disregarded when determining whether a defined contribution plan has broadly available allocation rates. The 2001 amendments also prescribe rules regarding DB/DC plans that provide for benefits in a manner similar to new comparability plans. Under these rules (contained in § 1.401(a)(4)–9(b)(2)(v)), in order for a DB/DC plan to be eligible to demonstrate compliance with the section 401(a)(4) nondiscrimination requirements on the basis of equivalent benefits, it must satisfy a minimum

[1] See § 1.401(a)(4)–8(c)(2)(ii) and § 1.401(a)(4)–12 (definition of standard interest rate). This standard interest rate is used to determine assumed growth of a defined contribution plan account and to convert the projected account balance to an annuity at normal retirement age.

[2] This higher minimum contribution rate is required under § 1.401(a)(4)–8(b)(1)(i)(B)(*3*) and (b)(1)(vi).

[3] See § 1.401(a)(4)–8(b)(1)(i)(B)(*1*) and (*2*), (b)(1)(iii), and (b)(1)(iv).

aggregate allocation gateway unless the DB/DC plan either fits within the definition of ''primarily defined benefit in character'' or consists of ''broadly available separate plans.'' This minimum aggregate allocation gateway requires a minimum allocation rate (or equivalent allocation rate) for each nonhighly compensated employee.

Since 2001, a number of employers have moved away from providing retirement benefits through traditional defined benefit plans. In many of these cases, employers have either significantly changed the type of benefit formula provided under the plan (such as in the case of a conversion to a cash balance plan), or have prohibited new employees from entering the plan entirely. The employers may then have allowed employees who had already begun participation in the defined benefit plan (or who are older or have been credited with longer service under the plan) to continue to earn pension benefits under the defined benefit plan while closing the plan or formula to all other employees. These defined benefit plans are sometimes referred to as ''closed plans,'' and the employees who continue to earn pension benefits under the closed plan are often known as a ''grandfathered group of employees.'' In situations in which new employees continue to earn benefits under the defined benefit plan, but are under a new formula, any formula that continues to apply to a grandfathered group of employees is sometimes referred to as a ''closed formula.''

Closed plans are required to meet the coverage rules under section 410(b) and the nondiscrimination rules under section 401(a)(4) (including a nondiscrimination requirement regarding the availability of benefits, rights, and features). Many closed plans, however, may eventually find it difficult to meet these requirements because the proportion of the grandfathered group of employees who are highly compensated employees compared to the employer's total workforce increases over time. This occurs because members of the grandfathered group of employees usually continue to receive pay raises (and so may become highly compensated employees), and new employees (who are generally nonhighly compensated employees) are not covered by the closed plan.

When a closed defined benefit plan can no longer meet the nondiscrimination requirements on a stand-alone basis because of the demographic changes previously described, it can demonstrate compliance with section 401(a)(4) by aggregating with the employer's defined contribution plan. In general, it is easier to meet the nondiscrimination requirements if the resulting DB/DC plan demonstrates compliance with section 401(a)(4) based on the benefits or equivalent benefits provided to the employees (rather than based on contributions).

On January 6, 2014, the Treasury Department and the IRS published Notice 2014–5, 2014–2 I.R.B. 276. Notice 2014–5 provided temporary nondiscrimination relief for certain closed plans. Specifically, under Notice 2014–5, if certain criteria are satisfied,[4] a plan sponsor is permitted to test a DB/DC plan that includes a closed plan that was closed before December 13, 2013, on a benefits basis for plan years beginning before January 1, 2016, without complying with the minimum aggregate allocation gateway, even if that would otherwise be required under the current regulations. Notice 2015–28, 2015–14 I.R.B. 848, extended that relief for an additional year by applying it to plan years beginning before 2017 provided that the conditions of Notice 2014–5 are satisfied.

Notice 2014–5 also requested comments on whether the section 401(a)(4) regulations should be amended to provide additional alternatives that would allow a DB/DC plan to satisfy the nondiscrimination in amount requirements on the basis of equivalent benefits, and whether certain other permanent changes should be made to the nondiscrimination regulations, such as modifications to the rules regarding nondiscriminatory benefits, rights, and features.[5] The comments received in response to Notice 2014–5 generally supported these types of changes. In addition, all of the commenters requested permanent changes to the nondiscrimination requirements in order to make it easier for closed plans to continue to satisfy the nondiscrimination requirements.

The Treasury Department and the IRS agree that permanent changes to the nondiscrimination rules should be made in order to help employers and plan sponsors preserve the retirement expectations of certain grandfathered groups of employees. These changes are meant to apply to situations in which the proportion of the grandfathered group of employees who are highly compensated employees compared to the employer's total workforce has increased due to ordinary demographic changes, as previously described in this preamble.

Explanation of Provisions

I. Overview

The proposed regulations modify a number of provisions in the existing regulations under section 401(a)(4) to address situations and plan designs, including closed plans and formulas, that were not contemplated in the development of the regulations and the 2001 amendments. While many of the changes in the proposed regulations provide nondiscrimination relief for certain closed plans and formulas, the proposed regulations also include other changes that are not limited to closed plans and formulas.

II. Rules Related to Closed Plans and Similar Arrangements

The proposed regulations set forth special rules that allow closed plans and similar arrangements to satisfy the nondiscrimination rules in additional situations. These special rules are based on the existing rules for DBRAs, as modified to respond to concerns raised by stakeholders with respect to those existing rules.

Under the proposed regulations, the eligibility conditions set forth in the modified DBRA rules (described in section II.A of this portion of the preamble) provide a framework for the eligibility conditions for the snapshot rule related to closed plans in a DB/DC plan (described in section II.B of this portion of the preamble). The modified DBRA rules are also used as a basis for the special testing rule for benefits, rights, and features provided to a grandfathered group of employees (described in section II.C of this portion of the preamble). For example, the special testing rule for a benefit, right, or feature provided to a grandfathered group of employees under a defined contribution plan establishes nondiscrimination relief for matching contributions provided to a

[4] Generally, in order to be eligible for the relief provided by Notice 2014–5, each defined benefit plan that is part of an aggregated DB/DC plan must have satisfied the requirements of section 401(a)(4) without using the minimum aggregate allocation gateway under § 1.401(a)(4)–9(b)(2)(v)(D). Thus, the defined benefit plan must have either been primarily defined benefit in character (within the meaning of § 1.401(a)(4)–9(b)(2)(v)(B)), consisted of broadly available separate plans (within the meaning of § 1.401(a)(4)–9(b)(2)(v)(C)), or satisfied the applicable nondiscrimination rules without being aggregated with a DC plan.

[5] Section 1.401(a)(4)–4 provides rules for determining whether the benefits, right, and features provided under a plan are made available in a nondiscriminatory manner. Under these rules, each benefit, right, or feature must satisfy the current availability requirement of § 1.401(a)(4)–4(b) (which requires testing of the group to which the benefit, right, or feature is currently available) and the effective availability requirement of § 1.401(a)(4)–4(c) (which requires that the group of employees to whom the benefit, right, or feature is effectively available must not substantially favor highly compensated employees).

grandfathered group of employees who formerly participated in a defined benefit plan that is intended to be consistent with the nondiscrimination relief provided by the modified DBRA rules for nonelective contributions provided to such a grandfathered group of employees.

A. Modifications to the DBRA Rules Under § 1.401(a)(4)–8

The proposed regulations modify the rules applicable to DBRAs under § 1.401(a)(4)–8, which allow certain defined contribution plan allocations to be disregarded when determining whether a defined contribution plan has broadly available allocation rates. The rules applicable to DBRAs allow employers to provide, in a nondiscriminatory manner, certain allocations to replace defined benefit plan retirement benefits without having to satisfy the minimum aggregate allocation gateway. The modifications in the proposed regulations are intended to allow more allocations to fit within the DBRA rules. For example, under the existing regulations a DBRA must be reasonably designed to replace the benefits that would have been provided under the closed defined benefit plan. The proposed regulations provide greater flexibility in this respect and allow the allocations to be reasonably designed to replace some or all of the benefits that would have been provided under the closed plan, subject to a requirement that the allocations be provided in a consistent manner to all similarly situated employees.

The proposed regulations incorporate a modified version of the conditions for an allocation to be a DBRA that were reflected in Rev. Rul. 2001–30, 2001–2 C.B. 46. For example, under one of the conditions set forth in Rev. Rul. 2001–30, in order for an allocation to be a DBRA, the defined benefit plan's benefit formula for the group of employees who formerly benefitted under that plan must have generated equivalent normal allocation rates that increased from year to year as employees attained higher ages. The proposed regulations ease this restriction on the types of defined benefit plans with respect to which a DBRA can be provided by allowing a DBRA also to replace the benefit provided under a defined benefit plan with a benefit formula that generated equivalent normal allocation rates that increased from year to year as employees were credited with additional years of service (rather than only as the employees attained higher ages).

The existing regulation also requires that the group of employees who receive a DBRA must be a nondiscriminatory group of employees, and Rev. Rul. 2001–30 interprets this rule as requiring that the group of employees satisfy the minimum coverage requirements of section 410(b) (determined without regard to the average benefit percentage test). The proposed regulations incorporate this interpretation, but limit its application so that the rule only applies for the first 5 years after the closure date. In addition, the proposed regulations incorporate the interpretation in Rev. Rul. 2001–30 regarding whether the defined benefit plan was an established nondiscriminatory defined benefit plan by requiring that the closed plan be in effect for 5 years before the closure date (with one year substituted for 5 years, as provided by Rev. Rul. 2001–30, in the case of a defined benefit plan maintained by a former employer) with no substantial change to the closed plan during that time (except for certain permitted amendments allowed by the proposed regulations).

In addition, the proposed regulations expand the list of permitted amendments to a closed plan that do not prevent allocations under a plan from being DBRAs. For example, the proposed regulations permit an amendment to a closed plan during the 5-year period before it was closed, provided that the amendment does not increase the accrued benefit or future accruals for any employee, does not expand coverage, and does not reduce the ratio-percentage under any applicable nondiscrimination test. In addition, under the proposed regulations, an amendment during this period could extend coverage to an acquired group of employees provided that all similarly situated employees within that group are treated in a consistent manner.

As under the existing regulations, the proposed regulations contain a general restriction on plan amendments relating to a DBRA; however, the proposed regulations expand the list of plan amendments that are excepted from this rule. The proposed regulations retain the exception from this restriction on plan amendments for an amendment that makes *de minimis* changes in the calculation of a DBRA and for an amendment that adds or removes a ''greater-of'' plan provision (under which a participant receives the greater of the otherwise applicable allocation and the DBRA). In addition, the proposed regulations provide an exception from this restriction for any plan amendment modifying a DBRA that does not reduce the ratio percentage under any applicable nondiscrimination test.

B. Closed Plan Rule Added to the Plan Aggregation and Restructuring Rules Under § 1.401(a)(4)–9

The proposed regulations add a new exception to the requirement that a DB/DC plan must satisfy the minimum aggregate allocation gateway once the other conditions under § 1.401(a)(4)–9 are not met (the ''closed plan rule''). This closed plan rule, which applies to a DB/DC plan that includes a closed plan, provides an exception to the minimum aggregate allocation gateway that would otherwise apply, but only if the closed plan was in effect for 5 years before the closure date and no significant change was made to the closed plan during or since that time (except for certain permitted amendments).

The DB/DC plan may use this closed plan rule for a plan year that begins on or after the fifth anniversary of the closure date. To be eligible for the closed plan rule, during the 5-year period following the closure date, either the DB/DC plan must satisfy the nondiscrimination in amount requirement of section 401(a)(4) without using the minimum aggregate allocation gateway, or the closed plan must satisfy that requirement without aggregation with any defined contribution plan. This requirement is comparable to the requirement that the group of employees who receive DBRAs must be a group of employees who satisfy the minimum coverage requirements of section 410(b).

Under the proposed regulations, certain amendments to a closed defined benefit plan do not prevent the plan from using the closed plan rule. These plan amendments are intended to allow a plan sponsor of a closed plan to address changed circumstances. For example, under the proposed regulations, a plan amendment during the 5-year period ending on the closure date does not prevent the plan from later using the closed plan rule, provided that the plan amendment does not increase the accrued benefit or future accruals for any employee, does not expand coverage, and does not reduce the ratio percentage under any applicable nondiscrimination test. Similarly, an amendment to the closed plan is permitted after the closure date, provided that the amendment does not reduce the ratio percentage under any applicable nondiscrimination test. Thus, for example, under the proposed regulations, a plan sponsor may add nonhighly compensated employees to a coverage group after it is closed in order to satisfy the nondiscrimination rules.

De minimis changes to the closed plan's benefit formula are also permitted under the proposed regulations.

C. Special Testing Rule for the Nondiscriminatory Availability of a Benefit, Right, or Feature Provided to a Grandfathered Group of Employees Under § 1.401(a)(4)–4

The proposed regulations establish a special nondiscrimination testing rule under § 1.401(a)(4)–4 that applies if a benefit, right, or feature is made available only to a grandfathered group of employees with respect to a closed plan. This special rule provides relief in certain circumstances from certain nondiscrimination testing for a benefit, right, or feature provided under the closed plan, or for a rate of matching contributions provided to a grandfathered group under a defined contribution plan.

If the eligibility conditions are satisfied, the special testing rule treats a benefit, right, or feature that is provided only to a grandfathered group of employees as satisfying the current and effective availability tests of § 1.401(a)(4)–4(b) and (c). The special testing rule applies to plan years beginning on or after the fifth anniversary of the closure date and applies on a plan-year by plan-year basis. To be eligible for the special testing rule, the benefit, right or feature must be currently available to a group of employees that satisfies the minimum coverage requirements of section 410(b) for the plan years that begin within 5 years after the closure date. Once the special testing rule applies to a benefit, right, or feature, the special testing rule continues to apply for purposes of that benefit, right, or feature indefinitely (unless a later amendment changes the eligibility for the benefit, right, or feature). If a plan amendment changes the eligibility for the benefit, right, or feature after the closure date, then the special testing rule will cease to apply (subject to certain specified exceptions).

If the benefit, right, or feature that is available solely to a grandfathered group of employees is provided under a defined benefit plan, then it must be provided under the closed plan (rather than a different defined benefit plan). This is because the purpose of the special rule is to accommodate a plan amendment under which the benefit formula has been changed, but the prior benefit formula has been preserved for a grandfathered group of employees and the benefit, right, or feature is made available only to the grandfathered group of employees who continue to accrue benefits under the prior benefit formula.[6] Accordingly, the special testing rule is available only if the amendment restricting the availability of the benefit, right, or feature also resulted in a significant change in the type of the defined benefit plan's formula. For example, a conversion to a cash balance plan would be a significant change in the type of benefit formula, so that the special testing rule would apply to facilitate preservation of any subsidized early retirement factors for the employees who continue to benefit under the prior benefit formula. By contrast, in the case of a benefit formula that determines benefits as a percentage of compensation, a change in that formula to reduce that percentage would not be considered a significant change in the type of benefit formula, even if the reduction is large.

The special testing rule for a benefit, right, or feature provided under the closed plan also requires that the benefit, right, or feature has been in effect without being amended for a 5-year period before the closure date (subject to a limited exception for acquired employees). This rule is designed to ensure that the special treatment is available only for a long-standing provision and cannot be used for a benefit, right, or feature that has not been provided long enough for participants to have established a reasonable expectation that it will continue. In addition, this rule prevents a plan sponsor from obtaining special treatment for a benefit, right, or feature added shortly before and in anticipation of the closure of the plan. The proposed regulations set forth a list of permitted plan amendments that do not result in the loss of this special testing rule that are generally comparable to the list of permitted amendments for other closed plan arrangements.

The special testing rule also applies to a rate of matching contributions under a defined contribution plan that meets certain requirements. In order to be eligible for this testing rule, the rate of matching contributions must be reasonably designed so that the matching contributions will replace some or all of the value of the benefit accruals that each employee in the grandfathered group of employees would have been provided under the closed plan in the absence of a closure amendment. In addition, the rate of matching contributions for the grandfathered group of employees must be provided in a consistent manner to all similarly situated employees.

[6] The existing regulations provide a special rule for current availability testing for a benefit, right, or feature that applies solely to benefits accrued before the amendment date. *See* § 1.401(a)(4)–4(d)(2).

III. Modification of Testing Options Under § 1.401(a)(4)–9 for DB/DC Plans, Including DB/DC Plans That Do Not Include a Closed Plan

In addition to providing a special rule for closed plans and similar arrangements, the proposed regulations generally ease the rules under which any DB/DC plan can satisfy the nondiscrimination in amount requirement on the basis of benefits. These changes are intended to facilitate the ongoing maintenance of a defined benefit plan that provides coverage to a group of employees that is determined using a reasonable business classification.

The proposed regulations expand the ability to use the average of the equivalent allocation rates under the defined benefit plan for purposes of satisfying the minimum aggregate allocation gateway by permitting the averaging of allocation rates for nonhighly compensated employees under the defined contribution plan for this purpose. This modification is intended to better accommodate plan sponsors that have a defined contribution plan with service- or age-based allocation formulas. The Treasury Department and the IRS have determined that it is appropriate, in this context, to allow shorter-service nonhighly compensated employees to be provided less than the minimum aggregate allocation gateway rate, as long as longer-service nonhighly compensated employees are provided allocation rates that are sufficiently higher than the minimum aggregate allocation gateway rate. The Treasury Department and the IRS are considering whether any restrictions on this rule are appropriate so that the rule serves its intended purpose of facilitating formulas that provide higher allocation rates to longer-service nonhighly compensated employees, and invite comments on ways to permit appropriate flexibility while ensuring the provision is not used to circumvent the purpose of the nondiscrimination rules.

The proposed regulations also include a limitation on the averaging of rates that applies to both defined contribution and defined benefit plans in order to minimize the impact of outliers. In general, this special rule applies a cap under which any equivalent normal allocation rate or allocation rate in excess of 15% is treated as equal to 15%. However, this cap is raised to 25% for any allocation rate or equivalent normal allocation rate that results solely

from a plan design providing allocation rates or generating equivalent normal allocation rates that are a function of age or service under which higher rates are provided to older or longer-service employees.

In addition, under the proposed regulations, the average of the matching contributions actually made for nonhighly compensated employees may be used to a limited extent (up to 3 percent of compensation) for purposes of determining whether each nonhighly compensated employee satisfies the minimum aggregate allocation gateway test. Thus, for example, if the minimum aggregate allocation gateway is 7% and the average of the matching contributions actually made for nonhighly compensated employees is 3%, then a non-elective contribution of 4% for each individual would be needed in order to satisfy the minimum aggregate allocation gateway under the proposed regulations. The regulations use the average matching contributions, rather than matching contributions allocated for each employee, in order to avoid diluting the incentive effect of an employer match.

The proposed regulations also provide a new alternative to the minimum aggregate allocation gateway. Under this alternative, a DB/DC plan is not required to satisfy the minimum aggregate allocation gateway if it can satisfy the nondiscrimination in amount requirement on the basis of equivalent benefits using an interest rate of 6%, rather than the current standard interest rate of between 7.5% and 8.5%.

IV. Benefit Formulas for Individual Employees or Groups Without a Reasonable Business Purpose; Modifications to the Amounts Testing Rules Under § 1.401(a)(4)–2 and § 1.401(a)(4)–3

The proposed regulations also include changes to address certain arrangements that take advantage of the flexibility in the existing nondiscrimination rules [7] to provide a special benefit formula for selected employees without extending that formula to a classification of employees that is reasonable and is established under objective business criteria. A plan satisfies the minimum coverage requirements of section 410(b) if the plan's ratio percentage is 70% or higher or the plan satisfies the average benefit test. To satisfy the average benefit test, pursuant to § 1.410(b)–4, the group of employees must be determined using a classification that is reasonable and that is established under objective business criteria pursuant to § 1.410(b)–4(b) and must have a ratio percentage that is described in § 1.410(b)–4(c) (which includes safe harbor and unsafe harbor percentages). A classification of employees that is reasonable and is established under objective business criteria is referred to in this preamble as a ''reasonable business classification.'' To the extent that a plan provides a special benefit formula and can still pass the nondiscrimination requirements, the plan sponsor can use a qualified retirement plan to provide benefits that would otherwise be provided under a nonqualified plan. These arrangements are sometimes referred to as qualified supplemental executive retirement plans (or QSERPs).

Under the general test in the existing regulations, if a plan satisfies the minimum coverage requirements of section 410(b) using the average benefit percentage test, then the rate group for each highly compensated employee is treated as satisfying the minimum coverage requirements if the ratio percentage for the rate group is equal to the midpoint between the safe harbor and the unsafe harbor percentages (or the ratio percentage for the plan as a whole, if less). This rule recognizes that the composition of a rate group may be unpredictable and so the rate group should not be subject to a reasonable business classification standard. However, that same consideration is not relevant if the group of employees to whom the allocation formula under a defined contribution plan (or benefit formula under a defined benefit plan) applies is not a reasonable business classification.

Accordingly, the proposed regulations limit the existing rule under which a rate group with respect to a highly compensated employee is treated as satisfying the average benefit percentage test to those situations in which the allocation formula (or benefit formula) that applies to the highly compensated employee also applies to a reasonable business classification. For example, if a benefit formula applies solely to a highly compensated employee who is identified by name, it does not apply to a reasonable business classification. See § 1.410(b)–4(b). In such a case, the proposed regulations would require that the rate group with respect to that individual satisfy the ratio percentage test.

Proposed Applicability Date

Except as described below, these regulations are proposed to be applicable to plan years beginning on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. Taxpayers are permitted to apply the provisions of these proposed regulations except for those described in section III of the Explanation of Provisions portion of the preamble for plan years beginning before this proposed applicability date, but not for plan years earlier than those beginning on or after January 1, 2014. Accordingly, the ability to rely on a provision of these proposed regulations for periods prior to the proposed applicability date for these regulations applies to the disregard of certain defined benefit replacement allocations in cross-testing; the exception from the minimum aggregate allocation gateway with respect to certain closed plans; the special testing rule for benefits, rights, and features with respect to certain closed plans; and the rule applying the ratio percentage test to a rate group in the case of a benefit formula that does not apply to a reasonable business classification. Taxpayers may rely on these provisions (that is, the provisions that the proposed regulations would permit a taxpayer to apply before the proposed applicability date for these regulations) in order to satisfy the nondiscrimination requirements of section 401(a)(4) for plan years beginning on or after January 1, 2014, and until the corresponding final regulations become applicable.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

[7] Under the existing regulations, the nondiscrimination requirements of section 401(a)(4) and the coverage rules of section 410(b) are coordinated. The general test under the section 401(a)(4) regulations is applied by determining whether each rate group under the plan (that is, for each highly compensated employee, the group of employees with a benefit or contribution rate that is greater than or equal to the benefit or contribution rate for the highly compensated employee) satisfies section 410(b) as if it were a plan.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. Treasury and the IRS request comments on all aspects of the proposed rules, including the proposed applicability date. Treasury and the IRS also request comments on the following issues:

- Whether guidance needs to be developed for a plan that has more than one closure or closure amendment?
- Whether the rules regarding transition allocations and successor employers are still needed in light of the modifications to the DBRA rules?

All comments will be available for public inspection and copying at *www.regulations.gov* or upon request.

A public hearing has been scheduled for May 19, 2016, beginning at 10 a.m. in the Auditorium, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Because of building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Due to access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments by April 28, 2016 and an outline of the topics to be discussed and the time to be devoted to each topic by April 28, 2016. A signed paper or electronic copy of the outline should be submitted as prescribed in this preamble under the **ADDRESSES** heading. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Statement of Availability for IRS Documents

For copies of recently issued Revenue Procedures, Revenue Rulings, notices, and other guidance published in the Internal Revenue Bulletin, please visit the IRS Web site at *http://irs.gov.*

Drafting Information

The principal authors of these proposed regulations are Kelly C. Scanlon and Linda S. F. Marshall, IRS Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Department of Treasury participated in the development of the proposed regulations.

List of Subjects in 26 CFR Part 1

Income taxes, reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.401(a)(4)–0 is amended by:
■ 1. Adding paragraph (c)(5) to the entry for § 1.401(a)(4)–2.
■ 2. Adding paragraph (d)(8) to the entry for § 1.401(a)(4)–4.
■ 3. Adding paragraph (a)(4) to the entry for § 1.401(a)(4)–13.

The additions read as follows:

§ 1.401(a)(4)–0 Table of contents.

* * * * *

§ 1.401(a)(4)–2 Nondiscrimination in amount of employer contributions under a defined contribution plan.

* * * * *

(c) * * *

(5) Effective/applicability date.

* * * * *

§ 1.401(a)(4)–4 Nondiscriminatory availability of benefits, rights, and features

* * * * *

(d) * * *

(8) Special testing rule for grandfathered group of employees.

* * * * *

§ 1.401(a)(4)–13 Effective dates and fresh-start rules.

(a) * * *

(4) Effective/applicability date.

* * * * *

■ **Par. 3.** Section 1.401(a)(4)–2 is amended by:
■ 1. Revising paragraph (c)(3)(ii).
■ 2. Revising *Examples 4* and *5* in paragraph (c)(4).
■ 3. Adding *Examples 6* and *7* to paragraph (c)(4).
■ 4. Adding paragraph (c)(5).

The revisions and additions read as follows:

§ 1.401(a)(4)–2 Nondiscrimination in amount of employer contributions under a defined contribution plan.

* * * * *

(c) * * *

(3) * * *

(ii) *Application of nondiscriminatory classification test.* A rate group satisfies the nondiscriminatory classification test of § 1.410(b)–4 if and only if—

(A) The formula that is used to determine the allocation for the HCE with respect to whom the rate group is established applies to a group of employees that satisfies the reasonable classification requirement of § 1.410(b)–4(b); and

(B) The ratio percentage of the rate group is greater than or equal to the midpoint between the safe and unsafe harbor percentages applicable to the plan (or the ratio percentage of the plan, if that percentage is less).

* * * * *

(4) * * *

Example 4. (a) The facts are the same as in *Example 3,* except that N4 has an allocation rate of 8.0 percent. In addition, the formula that is used to determine the allocation for H2 is the same formula that is used to determine the allocation for all other employees in Plan D.

(b) There are two rate groups in Plan D. Rate group 1 consists of H1 and all those employees who have an allocation rate greater than or equal to H1's allocation rate (5.0 percent). Thus, rate group 1 consists of H1, H2 and N1 through N4. Rate group 2 consists of H2, and all those employees who have an allocation rate greater than or equal to H2's allocation rate (7.5 percent). Thus, rate group 2 consists of H2 and N4.

(c) Rate group 1 satisfies the ratio percentage test under § 1.410(b)–2(b)(2) because the ratio percentage of the rate group is 100 percent—that is, 100 percent (the percentage of all nonhighly compensated nonexcludable employees who are in the rate group) divided by 100 percent (the percentage of all highly compensated nonexcludable employees who are in the rate group).

(d) Rate group 2 does not satisfy the ratio percentage test of § 1.410(b)–2(b)(2) because the ratio percentage of the rate group is 50 percent—that is, 25 percent (the percentage of all nonhighly compensated nonexcludable employees who are in the rate group) divided by 50 percent (the percentage of all highly compensated nonexcludable employees who are in the rate group).

(e) However, under paragraph (c)(3)(ii) of this section rate group 2 satisfies the nondiscriminatory classification test of § 1.410(b)–4 because (i) the formula that is used to determine the allocation for H2 applies to a group of employees that satisfies the reasonable classification requirement of § 1.410(b)–4(b) (in this case, because it applies to all the employees) and (ii) the ratio percentage of the rate group (50 percent) is greater than the midpoint between the safe harbor and unsafe harbor percentages

applicable to the plan under § 1.410(b)–4(c)(4) (40.5 percent).

(f) Under paragraph (c)(3)(iii) of this section, rate group 2 satisfies the average benefit percentage test if Plan D satisfies the average benefit percentage test. (The requirement that Plan D satisfy the average benefit percentage test applies even though Plan D satisfies the ratio percentage test and would ordinarily not need to run the average benefit percentage test.) If Plan D satisfies the average benefit percentage test, then rate group 2 satisfies section 410(b); thus, Plan D satisfies the general test in paragraph (c)(1) of this section because each rate group under the plan satisfies section 410(b).

Example 5. (a) Plan E satisfies section 410(b) by satisfying the nondiscriminatory classification test of § 1.410(b)–4 and the average benefit percentage test of § 1.410(b)–5 (without regard to § 1.410(b)–5(f)). See § 1.410(b)–2(b)(3). Plan E uses the facts-and-circumstances requirements of § 1.410(b)–4(c)(3) to satisfy the nondiscriminatory classification test of § 1.410(b)–4. The safe and unsafe harbor percentages applicable to the plan under § 1.410(b)–4(c)(4) are 29 and 20 percent, respectively. Plan E has a ratio percentage of 22 percent. Rate group 1 under Plan E has a ratio percentage of 23 percent. The formula that is used to determine the allocation for the HCE with respect to whom rate group 1 was formed applies to all other employees.

(b) Under paragraph (c)(3)(ii) of this section, rate group 1 satisfies the nondiscriminatory classification requirement of § 1.410(b)–4, because (i) the formula that is used to determine the allocation for the HCE with respect to whom the rate group was formed applies to a group of employees that satisfies the reasonable classification requirement of § 1.410(b)–4(b) (in this case, because it applies to all the employees) and (ii) the ratio percentage of the rate group (23 percent) is greater than the lesser of—

(1) The ratio percentage for the plan as a whole (22 percent); and

(2) The midpoint between the safe and unsafe harbor percentages (24.5 percent).

(c) Under paragraph (c)(3)(iii) of this section, the rate group satisfies section 410(b) because the plan satisfies the average benefit percentage test of § 1.410(b)–5.

Example 6. (a) Employer Z maintains a defined contribution plan, Plan F. Employer Z has six nonexcludable employees, all of whom benefit under Plan F. There is one HCE (H1) and five NHCEs (N1 through N5). There is one rate group under Plan F. The formula that is used to determine the allocation for H1 is the greater of $20,000 or 10% of compensation for the year. The formula that applies to determine the allocation for N1 through N5 is 10% of compensation.

(b) Under paragraph (c)(3)(ii) of this section, the rate group with respect to H1 does not satisfy the nondiscriminatory classification test under § 1.410(b)–4 because the formula that is used to determine the allocation for H1 (with respect to whom the rate group is established) only applies to H1. Therefore, the rate group will satisfy paragraph (c)(3) of this section only if the ratio percentage of the rate group is greater than or equal to 70 percent. This ratio percentage test applies even if H1's compensation is greater than $200,000. In such a case, the rate group will pass the ratio percentage test (and accordingly the plan will satisfy the general test of this paragraph (c)) because each employee receives an allocation of 10% of compensation and therefore the ratio percentage for the rate group is equal to 100%.

Example 7. The facts are the same as in *Example 6,* except that the classification of employees who are entitled to benefit under the formula that applies to H1 includes N1 and N2, who are identified by name. Under paragraph (c)(3)(ii) of this section, the rate group with respect to H1 does not satisfy the nondiscriminatory classification test under § 1.410(b)–4 because the classification of H1, N1 and N2 by name does not satisfy the reasonable classification requirement of § 1.410(b)–4(b). Therefore, the rate group with respect to H1 will satisfy paragraph (c)(3) of this section only if the ratio percentage of the rate group is greater than or equal to 70 percent.

(5) *Effective/applicability date.* See § 1.401(a)(4)–13(a)(4) for rules on the effective/applicability date of this paragraph (c).

■ **Par. 4.** In § 1.401(a)(4)–3, paragraph (c)(2) is revised to read as follows:

§ 1.401(a)(4)–3 Nondiscrimination in amount of employer-provided benefits under a defined benefit plan.

* * * * *

(c) * * *

(2) *Satisfaction of section 410(b) by a rate group.* For purposes of determining whether a rate group satisfies section 410(b), the rules of § 1.401(a)(4)–2(c)(3) apply except that § 1.401(a)(4)–2(c)(3)(ii)(A) is applied by substituting ''benefit formula'' for ''formula that is used to determine the allocation.'' See paragraph (c)(4) of this section and § 1.401(a)(4)–2(c)(4), *Example 3* through *Example 6,* for examples of this rule. See § 1.401(a)(4)–13(a)(4) for rules on the effective/applicability date of this paragraph (c)(2).

* * * * *

■ **Par. 5.** In § 1.401(a)(4)–4, paragraph (d)(8) is added to read as follows:

§ 1.401(a)(4)–4 Nondiscriminatory availability of benefits, rights, and features.

* * * * *

(d) * * *

(8) *Special testing rule for grandfathered group of employees*—(i) *General rule.* For a plan year that begins on or after the fifth anniversary of the closure date with respect to a closed defined benefit plan, a benefit, right, or feature under a defined benefit or defined contribution plan that is available only to a grandfathered group of employees with respect to the closed defined benefit plan is treated as satisfying paragraphs (b) and (c) of this section for the plan year, provided that—

(A) No plan amendment that affects the availability of the benefit, right, or feature (other than the closure amendment) has an applicable amendment date (within the meaning of § 1.411(d)–3(g)(4)) that is within the period that begins on the closure date and ends on the last day of the plan year; and

(B) The additional requirements of paragraph (d)(8)(ii) or (iii) of this section, whichever is applicable, are satisfied.

(ii) *Additional requirements in the case of a benefit, right, or feature provided under a defined benefit plan.* If the benefit, right, or feature is provided under a defined benefit plan, then the following additional requirements apply—

(A) The defined benefit plan under which the benefit, right, or feature is provided is the closed defined benefit plan;

(B) No plan amendment that affects the availability of the benefit, right, or feature (other than the closure amendment) has an applicable amendment date that is within the 5–year period ending on the closure date; and

(C) The closure amendment that restricted the availability of the benefit, right, or feature, making it available only to the grandfathered group of employees, must also have provided for a significant change in the type of benefit formula under the plan (such as a change from a benefit formula that is not a statutory hybrid benefit formula to a lump sum-based benefit formula).

(iii) *Additional requirements in the case of a benefit, right, or feature provided under a defined contribution plan.* If the benefit, right, or feature is provided under a defined contribution plan, then the following additional requirements apply—

(A) The benefit, right, or feature must be a right to a rate of matching contributions provided under the defined contribution plan;

(B) The rate of matching contributions must be reasonably designed so that the matching contributions will replace some or all of the value of the benefit accruals that each employee in the grandfathered group of employees would have been provided under the closed defined benefit plan in the absence of a closure amendment (based on the terms of that plan and the section 415(b)(1)(A) dollar limit in effect immediately prior to the closure date);

(C) The closed defined benefit plan must satisfy the conditions set forth in § 1.401(a)(4)–8(b)(1)(iii)(D)(*3*); and

(D) The rate of matching contributions must be provided in a consistent manner to all similarly situated employees.

(iv) *Certain amendments not taken into account.* For purposes of applying the rules under this paragraph (d)(8), the following plan amendments are not taken into account (and, in the case of an amendment described in paragraph (d)(8)(iv)(C) or (D) of this section, the rules of this paragraph (d)(8) are applied as if the benefit, right, or feature provided after the amendment were the benefit, right, or feature provided before the amendment):

(A) An amendment adopted during the 5-year period ending on the closure date that extends eligibility for the benefit, right, or feature to an acquired group of employees provided that all similarly situated employees within that group are treated in a consistent manner.

(B) An amendment adopted after the closure date that expands or restricts the eligibility for the benefit, right, or feature, provided that, as of the applicable amendment date, the ratio percentage of the group of employees eligible for the benefit, right, or feature (taking into account the plan amendment) is not less than the ratio percentage of the group of employees eligible for the benefit, right, or feature provided before the amendment.

(C) An amendment adopted after the closure date that results in a replacement of the benefit, right, or feature with another benefit, right, or feature that is available to the same group of employees as the original benefit, right, or feature, provided that the original benefit, right, or feature is of inherently equal or greater value (within the meaning of paragraph (d)(4)(i)(A) of this section) than the benefit, right, or feature that replaces it.

(D) An amendment adopted after the closure date that results in a replacement of the benefit, right, or feature with another benefit, right, or feature that is available to the same group of employees as the original benefit, right, or feature, provided that there is only a *de minimis* difference between the amount payable under the original benefit, right, or feature and the amount payable under the benefit, right, or feature that replaces it.

(E) An amendment that is permitted by guidance published by the Commissioner in the Internal Revenue Bulletin.

(v) *Examples.* The following examples illustrate the rules in this paragraph (d)(8):

Example 1—(i) *Pre-amendment defined benefit plan.* Employer A maintains Plan P, a defined benefit plan that provides for an annual benefit equal to 2% of an employee's average annual compensation multiplied by the employee's years of service. Plan P also provides for a subsidized early retirement benefit available to employees who retire between the ages of 55 and 65 with 20 years of service. Plan P was established in 2003. The plan year is a calendar year. For the 2015 plan year, Plan P satisfied the nondiscrimination requirements under sections 410(b) and 401(a)(4) without regard to the special rules under section 410(b)(6)(C) and without aggregation with any other plan.

(ii) *Plan conversion amendment.* On November 1, 2015, Employer A amends Plan P to cease future accruals under its benefit formula effective as of the close of the plan year ending December 31, 2015 and to provide future benefit accruals under a cash balance formula. The cash balance formula provides for pay credits equal to 5% of compensation and annual interest credits at an interest crediting rate of 6%. Early retirement benefits payable with respect to benefits accrued under the cash balance formula are determined as the actuarial equivalent of the hypothetical account balance, determined using reasonable actuarial assumptions that are specified in Plan P. Under the terms of the conversion amendment, an employee's benefit is equal to the employee's benefit under the prior benefit formula as of the close of the plan year ending December 31, 2015, plus the amount determined under the cash balance formula. However, any employee who had attained the age of 50 and had completed 15 years of service on or before December 31, 2015 is entitled to a plan benefit that is the greater of the benefit determined under the pre-amendment formula, or the benefit described in the prior sentence. Except for the closure amendment, there is no other plan amendment that affects the availability of Plan P's early retirement subsidy. No other significant change to Plan P's coverage or benefit formula is made with an applicable amendment date that is during the period beginning on January 1, 2011 and ending on December 31, 2015 (the 5-year period ending on the closure date).

(iii) *Applicability of special testing rule.* The plan conversion amendment is a closure amendment with a closure date of December 31, 2015. Plan P's subsidized early retirement benefit available solely to the grandfathered group of employees is a separate benefit, right, or feature that must be tested for current and effective availability under paragraphs (b) and (c) of this section. For a plan year that begins on or after January 1, 2021, Plan P's subsidized early retirement benefit is eligible for the relief provided by the special testing rule of this paragraph (d)(8) because all of the applicable requirements are satisfied. The requirement under paragraph (d)(8)(i)(A) of this section is satisfied because no other plan amendment that affects the availability of the subsidized early retirement benefit has an applicable amendment date that is on or after December 31, 2015. The additional requirements pertaining to a benefit, right, or feature provided under a defined benefit plan are also satisfied: The subsidized early retirement benefit is provided under a closed defined benefit plan as required by paragraph (d)(8)(ii)(A) of this section; no amendment that affected the availability of the subsidized early retirement benefit was made with an applicable amendment date during the 5-year period ending on the closure date as required by paragraph (d)(8)(ii)(B) of this section; and Plan P has undergone a significant change in benefit formula in connection with the closure amendment that resulted in a restriction on the availability of the subsidized early retirement benefit as required by paragraph (d)(8)(ii)(C) of this section.

Example 2—(i) *Closure of defined benefit plan.* The facts are the same as in *Example 1* of this paragraph (d)(8)(v), except that, instead of adopting a plan conversion amendment, Employer A amends Plan P to cease future accruals under the original benefit formula for all employees.

(ii) *Plan amendment to profit-sharing plan that provides enhanced rate of matching contributions.* Employer A has a profit-sharing plan that includes a qualified cash or deferred arrangement and matching contributions with respect to elective deferrals of up to 3% of compensation. On November 1, 2015, Employer A amends the plan to provide, effective January 1, 2016, for additional matching contributions of up to an additional 4% of compensation solely for employees who (1) were previously covered under the defined benefit plan, and (2) had attained the age of 50 and had 15 years of service on or before December 31, 2015. This enhanced rate of matching contributions is reasonably designed so that the matching contributions will replace some or all of the value of the benefit accruals that would have otherwise been provided to this grandfathered group of employees under Plan P. Employer A makes no other change to this enhanced rate of matching contribution after the enhanced rate is established.

(iii) *Applicability of special testing rule.* The plan amendment is a closure amendment with a closure date of December 31, 2015. The enhanced rate of matching contribution that is available solely to the grandfathered group of employees is a separate benefit, right, or feature that must be tested for current and effective availability under paragraphs (b) and (c) of this section. For a plan year that begins on or after January 1, 2021, Plan P's enhanced rate of matching contribution is eligible for the relief provided by the special testing rule of this paragraph (d)(8) because all applicable requirements are satisfied. The requirement under paragraph (d)(8)(i)(A) of this section is satisfied because no change was made to the enhanced rate of match with an applicable amendment date that is on or after December 31, 2015. The following applicable additional requirements are also satisfied: The benefit, right, or feature provided under the defined contribution plan is a rate of matching contribution as required by paragraph (d)(8)(iii)(A) of this section; the enhanced

rate of matching contribution is reasonably designed so that the matching contributions will replace some of the value of the benefit accruals that each employee in the grandfathered group of employees would have otherwise been provided under Plan P immediately prior to the closure date as required by paragraph (d)(8)(iii)(B) of this section; and the rate of matching contributions is provided in a consistent manner to all similarly situated employees as required by paragraph (d)(8)(iii)(D) of this section.

(iv) *Applicability of § 1.401(a)(4)–8(b)(1)(iii)(D)(3).* In addition to the requirements described in paragraph (iii) of this *Example 2,* Plan P meets the conditions for a closed defined benefit plan specified in § 1.401(a)(4)–8(b)(1)(iii)(D)(*3*) as required by paragraph (d)(8)(iii)(C) of this section because Plan P's prior benefit formula generated equivalent normal allocation rates that increased as employees attained higher ages; Plan P satisfied the minimum coverage and nondiscrimination requirements under sections 410(b) and 401(a)(4) without regard to the special rules under section 410(b)(6)(C) and without aggregating with any other plan for the plan year preceding the closure date; and Plan P was in effect for the five-year period ending on the closure date and neither the benefit formula nor the coverage of the plan was significantly changed during this period.

(vi) *Effective/applicability dates.* The rules of this paragraph (d)(8) apply to plan years beginning on or after the date of publication of the Treasury decision adopting these rules as final in the **Federal Register**. Taxpayers may apply the rules of this paragraph (d)(8) for plan years beginning on or after January 1, 2014.

* * * * *

■ **Par. 6.** Section 1.401(a)(4)–8 is amended by:

■ 1. Revising paragraphs (b)(1)(iii)(B) through (E).

■ 2. Removing paragraph (b)(1)(iii)(F).

■ 3. Adding paragraph (b)(1)(iv)(E).

The revisions and additions read as follows:

§ 1.401(a)(4)–8 Cross-testing.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(B) *Defined benefit replacement allocations disregarded.* In determining whether a plan has broadly available allocation rates for the plan year within the meaning of paragraph (b)(1)(iii)(A) of this section, the following rules in paragraphs (b)(1)(iii)(B)(*1*) and (*2*) of this section apply:

(*1*) If an employee receives a defined benefit replacement allocation (within the meaning of paragraph (b)(1)(iii)(D) of this section) for the plan year in addition to the employee's otherwise applicable allocation under the plan for the plan year, then the employee's allocation rate is determined without regard to the defined benefit replacement allocation.

(*2*) If an employee receives an allocation for the plan year that is the greater of the allocation for which the employee would otherwise be eligible and the defined benefit replacement allocation (within the meaning of paragraph (b)(1)(iii)(D) of this section), then the allocation for which the employee would otherwise be eligible is considered currently available to the employee, even if the employee's defined benefit replacement allocation is greater. See paragraph (b)(1)(iii)(C)(*2*) of this section for additional rules relating to ''greater-of'' plan provisions.

(C) *Plan provisions*—(*1*) *In general.* Plan provisions providing for defined benefit replacement allocations (within the meaning of paragraph (b)(1)(iii)(D) of this section) for the plan year must specify both the group of employees who are eligible for the defined benefit replacement allocations and the amount of the defined benefit replacement allocations.

(*2*) *''Greater-of'' plan provisions.* An allocation does not fail to be a defined benefit replacement allocation within the meaning of paragraph (b)(1)(iii)(D) of this section merely because the plan provides that each employee who is eligible for a defined benefit replacement allocation receives the greater of that allocation and the allocation for which the employee would otherwise be eligible under the plan.

(*3*) *Limited plan amendments.* Except as provided in paragraph (b)(1)(iii)(D)(*5*) of this section, an allocation is not a defined benefit replacement allocation within the meaning of paragraph (b)(1)(iii)(D) of this section for the plan year if the plan provisions relating to the allocation are amended after the date those plan provisions are both adopted and effective.

(D) *Defined benefit replacement allocation*—(*1*) *In general.* A defined benefit replacement allocation is an allocation under a defined contribution plan provided only to a grandfathered group of employees with respect to a closed defined benefit plan. An allocation is treated as a defined benefit replacement allocation if—

(*i*) The allocation satisfies the conditions to be a replacement allocation with respect to a closed defined benefit plan in paragraph (b)(1)(iii)(D)(*2*) of this section;

(*ii*) The closed defined benefit plan satisfies the conditions in paragraph (b)(1)(iii)(D)(*3*) of this section; and

(*iii*) For each plan year that begins before the fifth anniversary of the closure date of the closed defined benefit plan, the grandfathered group of employees is a nondiscriminatory group of employees within the meaning of paragraph (b)(1)(iii)(D)(*4*) of this section.

(*2*) *Replacement allocation.* An allocation is a replacement allocation with respect to a closed defined benefit plan under this paragraph (b)(1)(iii)(D)(*2*) if—

(*i*) The allocation is designed so that it is reasonably expected to replace some or all of the value of the benefit accruals that each employee in the grandfathered group of employees would have been provided under the closed defined benefit plan in the absence of a closure amendment (based on the terms of that plan and the section 415(b)(1)(A) dollar limit in effect immediately prior to the closure date); and

(*ii*) The allocation is provided in a consistent manner to all similarly situated employees.

(*3*) *Closed defined benefit plan.* A closed defined benefit plan satisfies the conditions in this paragraph (b)(1)(iii)(D)(*3*) if—

(*i*) The closed defined benefit plan's benefit formula applicable to the grandfathered group of employees generated equivalent normal allocation rates that increased from year to year as employees attained higher ages or were credited with additional years of service;

(*ii*) The closed defined benefit plan satisfied the minimum coverage and nondiscrimination requirements under sections 410(b) and 401(a)(4) without regard to the special rules under section 410(b)(6)(C) and without aggregating with any other plan, for the plan year preceding the closure date; and

(*iii*) The closed defined benefit plan was in effect for the 5-year period ending on the closure date and neither the benefit formula nor the coverage of the plan was significantly changed by plan amendment with an effective date during this period.

(*4*) *Nondiscriminatory group of employees.* A group of employees is a nondiscriminatory group of employees for purposes of this paragraph (b)(1)(iii)(D)(*4*) if the group of employees satisfies section 410(b) for the plan year (without regard to § 1.410(b)–5).

(*5*) *Certain amendments not taken into account.* For purposes of determining whether the requirements of paragraphs (b)(1)(iii)(C)(*3*) and (b)(1)(iii)(D)(*3*) of this section are satisfied, the following plan amendments are not taken into account:

(*i*) An amendment to the closed defined benefit plan adopted during the 5-year period ending on the closure date, provided that the accrued benefit or future accruals for any employee are not increased, coverage is not expanded, and the amendment is not discriminatory within the meaning of paragraph (b)(1)(iii)(D)(*6*) of this section.

(*ii*) An amendment to the defined contribution plan under which the defined benefit replacement allocation is provided that makes *de minimis* changes in the calculation of that allocation (such as a change in the definition of compensation to include section 132(f) elective reductions).

(*iii*) An amendment to the defined contribution plan under which the defined benefit replacement allocation is provided that adds or removes a ''greater-of'' provision described under paragraph (b)(1)(iii)(C)(*2*) of this section.

(*iv*) An amendment to the defined contribution plan under which the defined benefit replacement allocation is provided that makes changes in the calculation of that allocation in a manner that is not discriminatory within the meaning of paragraph (b)(1)(iii)(D)(*6*) of this section.

(*v*) An amendment that guidance published by the Commissioner in the Internal Revenue Bulletin provides will not be taken into account.

(*6*) *Nondiscriminatory amendment*—(*i*) *General rule.* An amendment to a plan is not discriminatory if the ratio percentage of the plan is not decreased as a result of the amendment and, in the case of a plan that demonstrates compliance with the nondiscrimination in amount requirement of § 1.401(a)(4)–1(b)(2) using a method other than a safe harbor test under § 1.401(a)(4)–2(b), § 1.401(a)(4)–3(b), or paragraph (b)(3) or (c)(3) of this section, the ratio percentage for the rate group with respect to any HCE is not decreased as a result of the amendment.

(*ii*) *Timing of nondiscrimination testing.* In determining whether the ratio percentage of the plan or the rate group is decreased as a result of an amendment, an amendment that is not in effect for an entire plan year is treated as if it were in effect for the entire plan year. In the case of an amendment that has separate portions with separate effective dates, each portion of the amendment is treated as a separate amendment that must satisfy the requirements of paragraph (b)(1)(iii)(D)(*6*)(*i*) of this section for the plan year in which it takes effect.

(*7*) *Special rules for former employers and acquired employees.* The following special rules apply in the case of former employers and acquired employees:

(*i*) If the closed defined benefit plan was sponsored by a former employer and not by the employer, then the rules in paragraph (b)(1)(iii)(D)(*3*)(*ii*) of this section do not apply and one year is substituted for 5 years with respect to paragraph (b)(1)(iii)(D)(*3*)(*iii*) of this section;

(*ii*) An amendment adopted during the 5-year period ending on the closure date that extends the coverage or benefit formula of the closed defined benefit plan to an acquired group of employees may be applied (in addition to the amendments described in paragraph (b)(1)(iii)(D)(*5*) of this section) provided that all similarly situated employees within that group are treated in a consistent manner; and

(*iii*) If the employees of a former employer become the employees of the new employer as a result of a transaction that is a merger, acquisition, or similar event, then the transaction is treated as a closure amendment with respect to the former employer's plan as of the effective date of the acquisition.

(E) *Effective/applicability date.* See § 1.401(a)(4)–13(a)(4) for rules on the effective/applicability date of this section.

(iv) * * *

(E) *Defined benefit replacement allocation may be disregarded.* In determining whether a plan has a gradual age or service schedule for the plan year within the meaning of paragraph (b)(1)(iv)(A) of this section, if an employee receives a defined benefit replacement allocation (within the meaning of paragraph (b)(1)(iii)(D) of this section) for the plan year, then the plan's schedule is determined without regard to the defined benefit replacement allocation. For this purpose, the rules under paragraph (b)(1)(iii)(B) of this section apply. See § 1.401(a)(4)–13(a)(4) for rules on the effective/applicability date of this paragraph (b)(1)(iv)(E).

* * * * *

■ **Par. 7.** Section 1.401(a)(4)–9 is amended by:

■ 1. Revising paragraphs (b)(2)(v)(A) and (b)(2)(v)(D)(*3*).

■ 2. Adding paragraphs (b)(2)(v)(D)(*4*) and (*5*).

■ 3. Redesignating paragraph (b)(2)(v)(F) as paragraph (b)(2)(v)(H).

■ 4. Adding paragraphs (b)(2)(v)(F) and (b)(2)(v)(G).

The revisions and additions read as follows:

§ 1.401(a)(4)–9 Plan aggregation and restructuring.

* * * * *

(b) * * *

(2) * * *

(v) *Eligibility for testing on a benefits basis*—(A) *General rule*—(*1*) *In general.* Unless, for the plan year, a DB/DC plan is primarily defined benefit in character (within the meaning of paragraph (b)(2)(v)(B) of this section) or consists of broadly available separate plans (within the meaning of paragraph (b)(2)(v)(C) of this section), in order to be permitted to demonstrate satisfaction of the nondiscrimination in amount requirement of § 1.401(a)(4)–1(b)(2) on the basis of benefits, the DB/DC plan must satisfy the minimum aggregate allocation gateway (as described in paragraph (b)(2)(v)(D) of this section) except as provided in paragraph (b)(2)(v)(A)(*2*) of this section.

(*2*) *Additional testing options.* A DB/DC plan that is not eligible to demonstrate satisfaction of the nondiscrimination in amount requirement of § 1.401(a)(4)–1(b)(2) on the basis of benefits under paragraph (b)(2)(v)(A)(*1*) of this section is permitted to demonstrate satisfaction of that requirement on the basis of benefits if the DB/DC plan satisfies either the closed plan rule of paragraph (b)(2)(v)(F) of this section or the lower interest rate rule of paragraph (b)(2)(v)(G) of this section.

(*3*) *Effective/applicability date.* See § 1.401(a)(4)–13(a)(4) for rules on the effective/applicability date of this paragraph (b)(2)(v)(A).

* * * * *

(D) * * *

(*3*) *Averaging of rates for NHCEs*—(*i*) *Defined benefit plan.* For purposes of this paragraph (b)(2)(v)(D), a plan is permitted to treat each NHCE who benefits under a defined benefit plan that is part of the DB/DC plan as having an equivalent normal allocation rate equal to the average of the equivalent normal allocation rates under the defined benefit plan for all NHCEs benefitting under that plan.

(*ii*) *Defined contribution plan.* For purposes of this paragraph (b)(2)(v)(D), a plan is permitted to treat each NHCE who benefits under a defined contribution plan that is part of the DB/DC plan as having an allocation rate equal to the average of the allocation rates under the defined contribution plan for all NHCEs benefitting under that plan.

(*iii*) *Limitations on the averaging of rates.* For purposes of applying paragraphs (b)(2)(v)(D)(*3*)(*i*) and (*ii*) of this section, any equivalent normal allocation rate or allocation rate in excess of 15% of plan year compensation is treated as being 15%. The preceding sentence is applied by substituting 25% for 15% each time it

appears, but only if any allocation rate or equivalent normal allocation rate higher than 15% results solely from a plan design providing allocation rates or generating equivalent normal allocation rates that are a function of age or service under which higher rates are provided to older or longer-service employees.

(*4*) *Use of matching contributions.* For purposes of this paragraph (b)(2)(v)(D), if an NHCE is eligible for a matching contribution under a defined contribution plan that is part of the DB/DC plan, then the lesser of 3% and the average matching contribution percentage for the group of eligible NHCEs in that plan is permitted to be added to the allocation rate for that NHCE. For this purpose, the average matching contribution percentage for the group of eligible NHCEs in a plan is the actual contribution percentage (within the meaning of § 1.401(m)–5) for that group, determined without taking into account any employee contributions.

(*5*) *Effective/applicability date.* See § 1.401(a)(4)–13(a)(4) for rules on the effective/applicability date of this paragraph (b)(2)(v)(D).

* * * * *

(F) *Closed plan rule*—(*1*) *In general.* For a plan year that begins on or after the fifth anniversary of the closure date with respect to a closed defined benefit plan, a DB/DC plan that includes a closed defined benefit plan satisfies the closed plan rule of this paragraph (b)(2)(v)(F) for the plan year if—

(*i*) The closed defined benefit plan was in effect for the 5-year period ending on the closure date and neither the benefit formula nor the coverage of the plan was significantly changed by plan amendment (other than the closure amendment) with an effective date during the period that begins five years before the closure date and ends on the last day of the plan year; and

(*ii*) For each plan year that begins on or after the closure date and before the fifth anniversary of the closure date, one of the requirements in paragraph (b)(2)(v)(F)(*2*) of this section is satisfied.

(*2*) *Testing for 5 years post-closure.* A DB/DC plan meets the requirements of this paragraph (b)(2)(v)(F)(*2*) if—

(*i*) Each defined benefit plan that is part of the DB/DC plan satisfies the nondiscrimination in amount requirement of § 1.401(a)(4)–1(b)(2) on the basis of benefits without aggregation with any defined contribution plan;

(*ii*) The DB/DC plan satisfies the nondiscrimination in amount requirement of § 1.401(a)(4)–1(b)(2) on the basis of contributions; or

(*iii*) The DB/DC plan satisfies the primarily defined benefit in character requirement of paragraph (b)(2)(v)(B) of this section, or the broadly available separate plans requirement of paragraph (b)(2)(v)(C) of this section.

(*3*) *Certain amendments not taken into account.* For purposes of this paragraph (b)(2)(v)(F), the following plan amendments are not taken into account:

(*i*) An amendment to the closed defined benefit plan adopted during the 5-year period ending on the closure date, provided that the accrued benefit or future accruals for any employee are not increased, coverage is not expanded, and the amendment is not discriminatory within the meaning of § 1.401(a)(4)–8(b)(1)(iii)(D)(*6*).

(*ii*) An amendment adopted during the 5-year period ending on the closure date that extends the benefit formula with respect to the closed defined benefit plan to an acquired group of employees provided that all similarly situated employees within that group are treated in a consistent manner.

(*iii*) An amendment to the closed defined benefit plan that is adopted after the closure date that is not discriminatory within the meaning of § 1.401(a)(4)–8(b)(1)(iii)(D)(*6*).

(*iv*) An amendment to the closed defined benefit plan that makes *de minimis* changes in the benefit formula

(*v*) An amendment that guidance published by the Commissioner in the Internal Revenue Bulletin provides will not be taken into account.

(G) *Lower interest rate rule.* A DB/DC plan satisfies the lower interest rate rule of this paragraph (b)(2)(v)(G) if the plan can demonstrate satisfaction of the nondiscrimination in amount requirement of § 1.401(a)(4)–1(b)(2) on the basis of benefits, provided that benefits are normalized using an interest rate of 6% rather than a standard interest rate.

* * * * *

■ **Par. 8.** In § 1.401(a)(4)–12, add definitions for *Closed defined benefit plan, Closure amendment, Closure date,* and *Grandfathered group of employees* in alphabetical order to read as follows:

§ 1.401(a)(4)–12 Definitions.

* * * * *

Closed defined benefit plan. Closed defined benefit plan means a defined benefit plan that has been amended to—

(1) Cease accruals under a benefit formula provided by the defined benefit plan for some or all employees whose benefits were previously determined under that benefit formula; or

(2) Limit participation in the defined benefit plan to a group of employees that consists of some or all of the plan participants who participated in the plan as of the closure date.

Closure amendment. A closure amendment is a plan amendment that results in a closed defined benefit plan.

Closure date. A closure date is the last day before accruals cease or participation is limited pursuant to the closure amendment.

* * * * *

Grandfathered group of employees. A grandfathered group of employees with respect to a closure amendment means the group of employees who, after the closure date, either continue accruals under the closed defined benefit plan's benefit formula or are entitled to an allocation formula under a defined contribution plan because those employees previously participated in the closed defined benefit plan.

* * * * *

■ **Par. 9.** In § 1.401(a)(4)–13, paragraph (a)(4) is added to read as follows:

§ 1.401(a)(4)–13 Effective dates and fresh-start rules.

(a) * * *

(4) *Effective/applicability date*—(i) *In general.* Except as otherwise provided in this paragraph (a)(4), the rules of § 1.401(a)(4)–2(c), § 1.401(a)(4)–3(c)(2), § 1.401(a)(4)–8(b), and § 1.401(a)(4)–9(b)(2)(v)(A) and (D) apply to plan years beginning on or after the date of publication of the Treasury decision adopting these rules as final in the **Federal Register**.

(ii) *Application for earlier plan years.* Except as provided in paragraph (a)(4)(iii) of this section, taxpayers may apply § 1.401(a)(4)–2(c), § 1.401(a)(4)–3(c)(2), § 1.401(a)(4)–8(b), or § 1.401(a)(4)–9(b)(2)(v)(A) and (D) for plan years beginning on or after January 1, 2014 and before the effective/applicability date specified under paragraph (a)(4)(i) of this section. Alternatively, for these plan years, taxpayers may apply § 1.401(a)(4)–2(c), § 1.401(a)(4)–3(c)(2), § 1.401(a)(4)–8(b), or § 1.401(a)(4)–9(b)(2)(v)(A) and (D) as contained in 26 CFR part 1 revised April 1, 2015.

(iii) *Certain rules not applicable until finalized.* The rules of § 1.401(a)(4)–9(b)(2)(v)(D)(*3*)(*ii*), (b)(2)(v)(D)(*4*), and (b)(2)(v)(G) are not permitted to be applied for plan years before the effective/applicability date specified in paragraph (a)(4)(i) of this section.

* * * * *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2016–01675 Filed 1–28–16; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2015–0371; FRL–9932–58-Region 8]

Approval and Promulgation of State Implementation Plan Revisions; Rules, Public Notice and Comment Process, and Renumbering; Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Utah on February 25, 2013, August 5, 2013, and March 5, 2014. These submittals request SIP revisions to incorporate several changes to Utah's rules, including the permit public notice and comment process requirements, and renumbering for the ''Interstate Transport'' provisions. EPA is taking this action in accordance with section 110 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before February 29, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket Identification Number EPA–R08–OAR–2015–0371. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in the hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 8, Office of Partnerships and Regulatory Assistance, Air Program, 1595 Wynkoop Street, Denver, Colorado, 80202–1129. The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m.–4:00 p.m., excluding federal holidays. An electronic copy of the State's SIP compilation is also available at *http://www.epa.gov/region8/air/sip.html.* Please see the Direct final rule which is located in the Rules Section of this **Federal Register** for detailed instruction on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Jody Ostendorf, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. 303–312–7814, *ostendorf.jody@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule.

If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule.

EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the **ADDRESSES** section of this document.

Please note that if EPA receives adverse comment on a distinct provision 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. See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

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

Dated: August 4, 2015.

Shaun L. McGrath,

Regional Administrator, Region 8.

Editorial Note: This document was received for publication by the Office of **Federal Register** on January 14, 2016.

[FR Doc. 2016–01025 Filed 1–28–16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2015–0764; FRL–9941–80–OAR]

RIN 2060–AS73

Greenhouse Gas Reporting Rule: Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing revisions and confidentiality determinations for the petroleum and natural gas systems source category of the Greenhouse Gas Reporting Program (GHGRP). In particular, the EPA is proposing to add new monitoring methods for detecting leaks from oil and gas equipment in the petroleum and natural gas systems source category consistent with the leak detection methods in the recently proposed new source performance standards (NSPS) for the oil and gas industry. The EPA is also proposing to add emission factors for leaking equipment to be used in conjunction with these monitoring methods to calculate and report greenhouse gas (GHG) emissions resulting from equipment leaks. Further, the EPA is proposing reporting requirements and confidentiality determinations for nine new or substantially revised data elements.

DATES:

Comments. Comments must be received on or before February 29, 2016. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before February 29, 2016.

Public hearing. The EPA does not plan to conduct a public hearing unless requested. To request a hearing, please contact the person listed in the following **FOR FURTHER INFORMATION CONTACT** section by February 5, 2016. If requested, the hearing will be conducted on February 16, 2016, in the Washington, DC area. The EPA will provide further information about the hearing on the GHGRP Web site, *http://www.epa.gov/ghgreporting/index.html* if a hearing is requested.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2015–0764 to the *Federal eRulemaking Portal: http://*

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

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReportingRule@epa.gov.* For technical information, please go to the GHGRP Web site, *http://www.epa.gov/ghgreporting/index.html.* To submit a question, select Help Center, followed by ''Contact Us.''

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this proposal will also be available through the WWW. Following the Administrator's signature, a copy of this action will be posted on the EPA's GHGRP Web site at *http://www.epa.gov/ghgreporting/index.html.*

SUPPLEMENTARY INFORMATION:

Regulated Entities. These proposed revisions affect entities that must submit annual GHG reports under the GHGRP (40 CFR part 98). This proposed rule would impose on entities across the U.S. a degree of reporting consistency for GHG emissions from the petroleum and natural gas sector of the economy and therefore is ''nationally applicable'' within the meaning of section 307(b)(1) of the Clean Air Act (CAA). Although the EPA concludes that the rule is nationally applicable, the EPA is also making a determination, for purposes of CAA section 307(b)(1), that this action is of nationwide scope and effect and is based on such a determination. (See CAA section 307(b)(1) (a petition for review may be filed in the United States Court of Appeals for the District of Columbia ''if such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination'').) Further, the Administrator has determined that rules codified in 40 CFR part 98 are subject to the provisions of CAA section 307(d). (See CAA section 307(d)(1)(V) (the provisions of section 307(d) apply to ''such other actions as the Administrator may determine'').) These are proposed amendments to existing regulations. If finalized, these amended regulations would affect owners or operators of petroleum and natural gas systems that directly emit GHGs. Regulated categories and entities include, but are not limited to, those listed in Table 1 of this preamble:

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY

Category	NAICS [a]	Examples of affected facilities
Petroleum and Natural Gas Systems	486210	Pipeline transportation of natural gas.
	221210	Natural gas distribution.
	211111	Crude petroleum and natural gas extraction.
	211112	Natural gas liquid extraction.

[a] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding facilities likely to be affected by this action. Other types of facilities than those listed in the table could also be subject to reporting requirements. To determine whether you are affected by this action, you should carefully examine the applicability criteria found in 40 CFR part 98, subpart A and 40 CFR part 98, subpart W. If you have questions regarding the applicability of this action to a particular facility, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

CAA Clean Air Act
CBI confidential business information
CFR Code of Federal Regulations
CH_4 methane
CO_2 carbon dioxide
DOT Department of Transportation
EPA U.S. Environmental Protection Agency
FERC Federal Energy Regulatory Commission
FR Federal Register
GHG greenhouse gas
GHGRP Greenhouse Gas Reporting Program
GRI Gas Research Institute
ICR Information Collection Request
LDAR leak detection and repair
LNG liquefied natural gas
NAICS North American Industry Classification System
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OGI Optical gas imaging
OMB Office of Management and Budget
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
U.S. United States
UMRA Unfunded Mandates Reform Act
VOC volatile organic compounds
WWW Worldwide Web

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

I. Background

A. Organization of This Preamble

The first section of this preamble provides background information regarding the proposed amendments. This section also discusses the EPA's legal authority under the CAA to promulgate and amend 40 CFR part 98 of the Code of Federal Regulations, Mandatory Greenhouse Gas Reporting (hereafter referred to as ''part 98'') as well as the legal authority for making confidentiality determinations for the data to be reported. Section II of this preamble contains information on the proposed revisions to 40 CFR part 98, subpart W (hereafter referred to as ''subpart W''). Section III of this preamble discusses proposed confidentiality determinations for the reporting of new and substantially revised data elements. Section IV of this preamble discusses the impacts of the proposed amendments to subpart W. Finally, section V of this preamble describes the statutory and executive order requirements applicable to this action.

B. Background on the Proposed Action

On October 30, 2009, the EPA published part 98 for collecting information regarding GHGs from a broad range of industry sectors (74 FR 56260). Although reporting requirements for petroleum and natural gas systems were originally proposed to be part of part 98 (75 FR 16448, April 10, 2009), the final October 2009 rulemaking did not include the petroleum and natural gas systems source category as one of the 29 source categories for which reporting requirements were finalized. The EPA re-proposed subpart W in 2010 (79 FR 18608; April 12, 2010), and a subsequent final rulemaking was published on November 30, 2010, with the requirements for the petroleum and natural gas systems source category at 40 CFR part 98, subpart W (75 FR 74458) (hereafter referred to as ''the final subpart W rulemaking''). Following promulgation, the EPA finalized several actions revising subpart W (76 FR 22825, April 25, 2011; 76 FR 53057, August 25, 2011; 76 FR 59533, September 27, 2011; 76 FR 80554, December 23, 2011; 77 FR 51477, August 24, 2012; 78 FR 25392, May 1, 2013; 78 FR 71904, November 29, 2013; 79 FR 70352, November 25, 2014; 80 FR 64262, October 22, 2015).

On March 28, 2014, the Obama Administration released the President's *Climate Action Plan—Strategy to Reduce Methane Emissions.* The strategy summarizes the sources of methane (CH_4) emissions, commits to new steps to cut emissions of this potent GHG, including both voluntary and regulatory programs aimed at reducing CH_4 emissions, and outlines the Administration's efforts to improve the measurement of these emissions. The strategy builds on progress to date and takes steps to further cut CH_4 emissions from several sectors, including the oil and natural gas sector.[1] In this strategy, the EPA was specifically tasked with continuing to review GHGRP regulatory requirements to address potential gaps in coverage, improve methods, and ensure high quality data reporting. On January 14, 2015, the Obama administration provided additional direction to the EPA to ''explore potential regulatory opportunities for applying remote sensing technologies and other innovations in measurement and monitoring technology to further improve the identification and quantification of emissions'' in the oil and natural gas sector, such as the emissions submitted as part of GHGRP annual reporting.[2]

Multiple studies have found that once leaks are detected, the vast majority can be repaired with a positive return to the operator. Often in these cases, a majority of emissions come from a minority of sources. Use of advanced monitoring methods, such as optical gas imaging (OGI), to detect these leaks as soon as practicable has several benefits: It reduces the amount of methane and other atmospheric pollutants that are emitted into our atmosphere, it reduces company losses of valuable commodities like methane, and improves operational and safety practices so that leaks can be identified and fixed more efficiently in the future.

Additionally, as part of the agency's broad-based strategy under the President's *Climate Action Plan,* the EPA proposed NSPS for oil and natural gas affected facilities for which owners or operators commence construction, modification or reconstruction after September 18, 2015 (40 CFR part 60, subpart OOOOa (80 FR 56593)) (hereafter referred to as the ''NSPS subpart OOOOa''). As part of the proposed NSPS subpart OOOOa requirements, well site and compressor station affected sources would be required to implement a fugitive emissions monitoring and repair program for the first time.[3] For these proposed affected sources, the NSPS subpart OOOOa would require the monitoring of fugitive emissions components, which includes equipment such as valves, pumps, connectors, and pressure relief devices, for fugitive emissions and the subsequent repair of those fugitive emissions components. The EPA also proposed the use of OGI to identify fugitive emissions from the proposed NSPS subpart OOOOa affected sources.[4] [5] Currently, GHGRP subpart W sources that are part of the Onshore Petroleum and Natural Gas Production and Onshore Petroleum and Natural Gas Gathering and Boosting segments, which include certain well sites and compressor stations, calculate equipment leak emissions based on a count of equipment rather than from leak surveys. As a result, emissions from leak surveys at well sites or compressor stations in these segments that would be conducted as a result of NSPS subpart OOOOa compliance would not be reflected in calculations for GHGRP subpart W reporting in the current rule. In addition, for industry segments that do have GHGRP leak survey requirements, including the Onshore Natural Gas Transmission Compression, Underground Natural Gas Storage,

[1] *Climate Action Plan—Strategy to Reduce Methane Emissions.* The White House, Washington, DC, March 2014. Available at *http://www.whitehouse.gov/sites/default/files/strategy_to_reduce_methane_emissions_2014-03-28_final.pdf.* Docket Item No. EPA–HQ–OAR–2014–0831–0007.

[2] *FACT SHEET: Administration Takes Steps Forward on Climate Action Plan by Announcing Actions to Cut Methane Emissions.* The White House, Office of the Press Secretary, January 14, 2015. Available at *https://www.whitehouse.gov/the-press-office/2015/01/14/fact-sheet-administration-takes-steps-forward-climate-action-plan-anno-1.*

[3] Natural gas processing plants subject to 40 CFR part 60, subpart OOOO are already required to monitor for volatile organic compound (VOC) emissions from equipment leaks; NSPS subpart OOOOa would include requirements to monitor for VOC and CH_4 emissions from equipment leaks using the same methods as 40 CFR part 60, subpart OOOO.

[4] The proposal identified EPA Method 21 as a monitoring method that may also be used to verify repair of leaks, and the EPA requested comment on the use of Method 21 for leak surveys as well.

[5] See 80 FR 56593, 56667 (September 18, 2015).

Liquefied Natural Gas (LNG) Storage, and LNG Import and Export Equipment segments, augmenting GHGRP methods with methods proposed in the NSPS subpart OOOOa would avoid the need for sources that are subject to both programs to conduct two different sets of leak/fugitive emission surveys.

As another part of the EPA's response to the President's *Climate Action Plan,* in July 2015 the EPA proposed the voluntary Natural Gas STAR Methane Challenge Program (hereafter referred to as ''Methane Challenge Program''), which would provide a new mechanism through which companies could make and track ambitious commitments to reduce CH_4 emissions.[6] While tremendous progress has been made during the last 20 years through the Natural Gas STAR Program, significant opportunities remain to reduce CH_4 emissions, improve air quality, and capture and monetize this valuable energy resource. The Methane Challenge Program would create a platform for leading companies to go above and beyond existing voluntary action and make meaningful and transparent commitments to yield significant CH_4 emissions reductions in a quick, flexible, and cost-effective way. The Methane Challenge Program plans to leverage the significant amount of data reported by facilities to the GHGRP, plus voluntarily supplied supplemental data (as needed), to serve as the basis for tracking specific company actions. This proposed rulemaking would create a mechanism for Methane Challenge Program participants to track their voluntary leak detection and repair efforts.[7]

As a result of the proposed NSPS subpart OOOOa requirements for fugitive emissions monitoring and repair, plus voluntarily implemented leak detection and repair (LDAR) programs that companies may be undertaking through the Methane Challenge Program or other voluntary efforts, more facilities would have site-specific information on the types and number of components with fugitive emissions or leaks from each leak detection/monitoring survey. These data could be used to improve facility-level GHG emission estimates and track facility-level GHG emission reductions from equipment leaks for a variety of subpart W industry segments, including: Onshore Petroleum and Natural Gas Production; Onshore Petroleum and Natural Gas Gathering and Boosting; Onshore Natural Gas Processing; Onshore Natural Gas Transmission Compression; Underground Natural Gas Storage; LNG Storage; and LNG Import and Export Equipment.[8]

In this action, the EPA is proposing to amend subpart W to add new monitoring methods for detecting leaks from oil and gas equipment as well as to add emission factors to estimate emissions from leaking components (hereafter referred to as ''leaker emission factors'') for multiple industry segments. The new monitoring methods would augment the equipment leak requirements in subpart W with the fugitive emissions detection methods proposed for the NSPS subpart OOOOa. If the NSPS subpart OOOOa is amended in the future to incorporate other emerging technologies and/or major advances in fugitive monitoring, then the subpart W requirements will be updated by reference as well. Under these proposed amendments, facilities with an NSPS subpart OOOOa affected well site or compressor station fugitive emissions source would use the data derived from the proposed NSPS subpart OOOOa fugitive emissions requirements along with the subpart W equipment leak survey calculation methodology and leaker emission factors to calculate and report their GHG emissions to the GHGRP. These proposed revisions would also provide the opportunity for other sources at subpart W facilities not covered by the proposed NSPS subpart OOOOa fugitive emissions standards (*e.g.,* sources subject to state regulations and sources participating in the Methane Challenge Program or other voluntarily implemented program) to voluntarily use the proposed leak detection methods to calculate and report their GHG emissions to the GHGRP.

The amendments in this proposed rulemaking would advance the EPA's goal of maximizing rule effectiveness. For example, these amendments would align the monitoring requirements in subpart W with those in the NSPS subpart OOOOa, reducing burden for entities subject to the fugitive leak detection requirements in both programs. In addition, this proposed rulemaking provides clear calculation and reporting requirements in subpart W for the proposed new leak detection method, thus enabling government, regulated entities, and the public to easily identify and understand rule requirements.

The EPA is seeking comment only on the issues specifically identified in this proposed rulemaking. We will not consider comments that are outside the scope of this proposed rulemaking, such as comments on the proposed requirements of the NSPS subpart OOOOa or the proposed Methane Challenge Program, in this rulemaking process.

C. Legal Authority

The EPA is proposing these rulemaking amendments under its existing CAA authority provided in CAA section 114. As stated in the preamble to the 2009 final GHG reporting rulemaking (74 FR 56260, October 30, 2009), CAA section 114(a)(1) provides the EPA broad authority to require the information proposed to be gathered by this rulemaking because such data would inform and are relevant to the EPA's carrying out a wide variety of CAA provisions. See the preambles to the proposed (74 FR 16448, April 10, 2009) and final GHG reporting rulemaking (74 FR 56260, October 30, 2009) for further information.

In addition, the EPA is proposing confidentiality determinations for proposed new data elements in subpart W under its authorities provided in sections 114, 301, and 307 of the CAA. Section 114(c) of the CAA requires that the EPA make information obtained under section 114 available to the public, except where information qualifies for confidential treatment. The Administrator has determined that this proposed rulemaking is subject to the provisions of section 307(d) of the CAA.

D. How would these amendments apply to 2016 and 2017 reports?

The EPA is planning to address the comments we receive on these proposed changes and finalize the proposed amendments before the end of 2016. The EPA expects that the final amendments would be published at the same time as or soon after the final NSPS subpart OOOOa is published to ensure that these amendments are aligned. Owners or operators of facilities in the petroleum and natural gas system industry segments that conduct equipment leak detection surveys between the effective date of these final amendments and the end of 2016 would use that information along with information satisfying the provisions of the final amendments to subpart W (including final leaker emission factors)

[6] See the Natural Gas STAR Methane Challenge Program Proposal Web site, *http://www3.epa.gov/gasstar/methanechallenge/,* for more information.

[7] The Methane Challenge Program plans to phase-in a proposal related to mitigation options for equipment leaks/fugitive emissions at a later date.

[8] As proposed, NSPS subpart OOOOa would not cover components in the Natural Gas Distribution subpart W segment, so no additional information on fugitive emissions is expected from this segment beyond information already collected by subpart W. However, it is possible that future voluntary programs could result in improved information on fugitive emissions for this segment.

to calculate and report their 2016 reporting year equipment leak emissions. Starting with the 2017 reporting year, owners or operators of the petroleum and natural gas system industry segments that conduct equipment leak detection surveys any time during the year would be required to use that information along with information satisfying the provisions of the final amendments to subpart W (including final leaker emission factors) to calculate and report their annual equipment leak emissions.

II. Revisions and Other Amendments

A. Why are we proposing to add new monitoring methods for detecting leaks?

As noted in section I.B of this preamble, we are proposing to add new monitoring methods for detecting leaks and to add leaker emission factors to align the equipment leak requirements in subpart W with the fugitive emissions monitoring methods proposed for the NSPS subpart OOOOa. These proposed additions would refine the site-specific equipment leak emission estimates provided under the GHGRP for facilities conducting fugitive emissions monitoring. The proposed amendments would also allow facilities to use a consistent method to demonstrate compliance with multiple EPA programs. This proposal would limit burden for subpart W facilities with affected sources that would also be required to comply with the proposed NSPS subpart OOOOa by allowing them to use data derived from the implementation of the NSPS subpart OOOOa to calculate emissions for the GHGRP rather than requiring the use of different monitoring methods or requiring the use of population emission factors even though additional information using a direct leak detection method is available.

In addition, these proposed amendments are responsive to comments received on previous subpart W rulemaking efforts. For example, as part of the amendments proposed on December 9, 2014 (79 FR 73148), we received comments generally requesting that reporters be allowed to use information that provides the best representation of emissions from specific sources, including monitoring for equipment leaks, rather than prescribing one specific calculation method across the industry segment. As noted in section I.B of this preamble, reporters in the Onshore Petroleum and Natural Gas Production and Onshore Petroleum and Natural Gas Gathering and Boosting industry segments currently must use facility equipment counts and population emission factors to estimate equipment leak emissions. These proposed amendments would allow reporters in those segments to use the information from a leak survey conducted on their equipment to calculate and report GHG emissions to the GHGRP, which may provide more accurate estimates than the current method used for their equipment leak emissions. In the same December 2014 proposed rulemaking, we specifically requested comment on the use of advanced innovative monitoring methods for compliance with subpart W monitoring requirements (see 79 FR 73158). Commenters from several environmental organizations supported the addition of such methods; industry commenters generally stated that optical remote sensing or real time monitoring methods should not be required in subpart W, but they noted that if owners or operators already use these methods, then they should be allowed to use the results as alternatives to other required subpart W monitoring requirements.[9] While the use of OGI for leak detection was not the primary focus of this request for comment, allowing facilities to use facility-specific OGI monitoring methods as an alternative to the other required methods in subpart W is consistent with the comments we received on advanced innovative monitoring methods. Where a site-specific OGI monitoring program is used (such as those proposed in the NSPS subpart OOOOa), the facility will have specific information on the number and type of components with active leaks. We consider it reasonable to allow reporters to use this information to estimate their reported emissions.

B. How would the proposed amendments differ from the current subpart W requirements for emissions from equipment leaks?

As a first step, the EPA is proposing to add OGI as specified in the proposed NSPS subpart OOOOa to the list of methods for detecting equipment leaks in 40 CFR 98.234(a). Subpart W currently includes an OGI method in this list of methods (see 40 CFR 98.234(a)(1)), but the current subpart W OGI method is not consistent with the OGI method in the proposed NSPS subpart OOOOa. As part of the NSPS subpart OOOOa, the EPA is proposing that the OGI monitoring of fugitive emissions components be carried out through the development and implementation of monitoring plans, which would specify the measures for locating fugitive emissions components and the detection technology to be used. Specifically, the proposed NSPS subpart OOOOa would require affected facilities to develop a corporate-wide fugitive emissions monitoring plan that describes the OGI instrument and how the OGI survey would be conducted to ensure that fugitive emissions can be imaged effectively pursuant to specified criteria in the proposed rulemaking, as well as a site-specific fugitive emissions monitoring plan that includes a sitemap and defines the path the operator will take to ensure all fugitive emissions components are monitored. The proposed addition of this specific OGI method to subpart W as 40 CFR 98.234(a)(6) would align the methods in the two rulemakings and allow subpart W facilities to directly use information derived from the implementation of the fugitive emissions monitoring conducted under the NSPS subpart OOOOa to calculate and report emissions to the GHGRP. Consistent with that goal, the EPA expects that the final amendments to subpart W would reference the final version of the method(s) in the NSPS subpart OOOOa, including any changes made to the NSPS subpart OOOOa in response to comments on the proposed method.

We request comment on whether there are other methods for detecting equipment leaks that should be added to subpart W, either because they are commonly used across the industry or because they would align the subpart W methods with the methods in another federal, state, or local regulation.

The EPA is also proposing to provide the opportunity to use the leak survey monitoring and calculation methodology to additional reporters in subpart W. For example, in the Onshore Petroleum and Natural Gas Production and the Onshore Petroleum and Natural Gas Gathering and Boosting industry segments, subpart W presently requires reporters to count the number of equipment components of each type (*e.g.,* valve, connector, open-ended line, or pressure relief valve) or to count the number of major production equipment at the facility and then estimate the number of equipment components of each type using default average component counts for each piece of equipment in Tables W–1B and W–1C of subpart W. The resulting equipment component counts are then multiplied by default ''population emission factors'' in Table W–1A of subpart W to calculate emissions from equipment

[9] U.S. EPA, Office of Atmospheric Programs, Climate Change Division. *Response to Public Comments on the Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems.* September 2015. Docket Item No. EPA–HQ–OAR–2014–0831–0189.

leaks. These population emission factors represent an average emission rate for each equipment component of a certain type, based on the fugitive emissions rates observed during the study that is the basis for the factors.

Some studies have found that the majority of a facility's mass emissions from equipment leaks come from a small percentage of equipment components that have high leak rates.[10] In general, the implementation of a program to identify and repair leaking equipment components (*e.g.,* an LDAR program) or fugitive emissions components will tend to reduce emissions once the leaking components are repaired. Therefore, a facility with an ongoing monitoring and repair program will have fewer pieces of equipment with high leak rates and lower equipment leak emissions than prior to implementation of the program. However, no emission reduction will be observed in the subpart W emission estimates if the reporter continues to use equipment component counts and the default population emission factors in subpart W. Therefore, to track changes in emissions in the data reported to the GHGRP from year to year (*e.g.,* to show reduced emissions for facilities implementing a regulatory or voluntary LDAR program or a fugitive emissions monitoring and repair program), we are proposing that facilities that conduct leak surveys use the actual number of leaks identified and the proposed leaker emission factors to determine their equipment leak emissions instead of the default population emission factors.

Specifically, facilities with affected sources that are required to conduct fugitive emissions monitoring to comply with the proposed NSPS subpart OOOOa would be required to count the actual number of components with fugitive emissions identified through implementation of the NSPS subpart OOOOa as leaks for purposes for subpart W and use those counts with the leak survey calculation methodology in subpart W to determine equipment leak emissions for those components. If equipment leak surveys are conducted for other purposes, and the other sources and/or facilities are using one of the methods in 40 CFR 98.234(a), the reporter would have the option to use either the number of leaks with the equipment leak survey methodology in subpart W or the facility component counts with the population emission factors. The EPA's intent with this provision is to allow flexibility for Onshore Petroleum and Natural Gas Production and Onshore Petroleum and Natural Gas Gathering and Boosting reporters whose leak survey method may not align exactly with one of the existing methods in subpart W or the NSPS subpart OOOOa proposed method to continue to use component counts as needed. However, the EPA would expect that any reporter conducting leak surveys that align with the proposed method (or any existing leak detection method in subpart W), whether required by the NSPS subpart OOOOa or part of a voluntary program such as the Methane Challenge Program, would use those results for their subpart W annual reporting, because the additional burden of completing the emissions calculation after a leak survey has been conducted would be similar to using the existing subpart W facility equipment count and population emission factor method and the results would be more representative of the number of leaks at the facility than the existing subpart W method. We request comment on whether there are other situations for which subpart W should require a reporter to use the results of equipment leak surveys conducted using one of the methods in subpart W (*e.g.,* if the survey is conducted pursuant to a federal regulation other than the NSPS subpart OOOOa or pursuant to a state regulation).

To quantify emissions from the leaking components, subpart W includes leaker emission factors for each segment using the equipment leak survey methodology. In contrast to the population emission factors, which are multiplied by the total facility component counts, leaker emission factors are multiplied by the actual number of leaks identified by the leak survey for each component type. Subpart W does not currently include leaker emission factors for: (1) The Onshore Petroleum and Natural Gas Production industry segment; (2) the Onshore Petroleum and Natural Gas Gathering and Boosting industry segment; (3) storage wellheads in gas service in the Underground Natural Gas Storage industry segment; (4) LNG storage components in gas service in the LNG Storage industry segment; or (5) LNG terminals components in gas service for the LNG Import and Export Equipment industry segment. In this rulemaking, we are proposing a new set of leaker emission factors for these sources/segments. For industry segments that already include a set of leaker emission factors, we are proposing to expand that set of leaker emission factors to include certain additional components to fully encompass the fugitive emissions components as defined in the proposed NSPS subpart OOOOa. See section II.C of this preamble for more information on the development of the proposed leaker emission factors.

The EPA is also proposing to add new reporting requirements for facilities conducting equipment leak surveys to report equipment leak emissions under subpart W. Reporters in the Onshore Petroleum and Natural Gas Production and the Onshore Petroleum and Natural Gas Gathering and Boosting industry segments that begin reporting emissions using the leak survey methodology would be required to report the information currently listed in 40 CFR 98.236(q)(1) and (2), including the number of equipment leak surveys, component type, number of leaking components, average time the components were assumed to be leaking, and annual carbon dioxide (CO_2) and CH_4 emissions. These data elements are already required to be reported by facilities conducting leak detection surveys in the Onshore Natural Gas Processing, Onshore Natural Gas Transmission Compression, Underground Natural Gas Storage, LNG Storage and LNG Import and Export Equipment industry segments; however, facilities in those segments conducting equipment leak surveys using the OGI method as specified in the NSPS subpart OOOOa would begin reporting leaks for component types with proposed new leaker emission factors. Table 2 provides a summary of the equipment leak methodologies that would be available to each industry segments covered by subpart W under these proposed amendments.

[10] See, for example, Epperson, D., *et al.,* ''Equivalent leak definitions for Smart LDAR (leak detection and repair) when using optical imaging technology.'' *J Air Waste Manag Assoc,* 57:9, 1050–1060 (2007).

TABLE 2—PROPOSED EQUIPMENT LEAK REQUIREMENTS FOR SUBPART W

Subpart W—Industry Segments	Subpart W—Calculation Methodology			
	Components subject to the NSPS subpart OOOOa		Components not subject to the NSPS subpart OOOOa	
	Calculation methodology	Method for leak detection [a]	Calculation methodology	Method for leak detection [b]
Onshore Petroleum and Natural Gas Production; Onshore Petroleum and Natural Gas Gathering and Boosting.	Leak survey (40 CFR 98.233(q)).	OGI as specified in the proposed NSPS subpart OOOOa.	Leak survey (40 CFR 98.233(q)); OR Population count (40 CFR 98.233(r)).	Any method in 40 CFR 98.234(a). N/A.
Onshore Natural Gas Processing	Leak survey (40 CFR 98.233(q)).	Method 21	Leak survey (40 CFR 98.233(q)) [c].	Any method in 40 CFR 98.234(a).
Onshore Natural Gas Transmission Compression; Underground Natural Gas Storage: Storage stations, gas service.	Leak survey (40 CFR 98.233(q)).	OGI as specified in the proposed NSPS subpart OOOOa.	Leak survey (40 CFR 98.233(q)) [d].	Any method in 40 CFR 98.234(a).
Underground Natural Gas Storage: Storage wellheads, gas service.	Leak survey (40 CFR 98.233(q)).	OGI as specified in the proposed NSPS subpart OOOOa.	Leak survey (40 CFR 98.233(q)); OR Population count (40 CFR 98.233(r)).	Any method in 40 CFR 98.234(a). N/A.
LNG Storage: LNG Service; LNG Import and Export Equipment: LNG Service.	Leak survey (40 CFR 98.233(q)).	OGI as specified in the proposed NSPS subpart OOOOa.	Leak survey (40 CFR 98.233(q)).	Any method in 40 CFR 98.234(a).
LNG Storage: Gas Service; LNG Import and Export Equipment: Gas Service.	Leak survey (40 CFR 98.233(q)).	OGI as specified in the proposed NSPS subpart OOOOa.	Leak survey (40 CFR 98.233(q)); OR Population count (40 CFR 98.233(r)) [e].	Any method in 40 CFR 98.234(a). N/A.
Natural Gas Distribution: Transmission-distribution transfer stations.	N/A	N/A	Leak survey (40 CFR 98.233(q)).	Any method in 40 CFR 98.234(a).
Natural Gas Distribution: Below grade metering-regulating stations and Distribution Mains and Services.	N/A	N/A	Population count (40 CFR 98.233(r)).	N/A.

[a] The methods in this column are the methods in the proposed NSPS subpart OOOOa. The final amendments to subpart W would reference the final version of the method(s) in the NSPS subpart OOOOa, including any changes made to the NSPS subpart OOOOa in response to comments on the proposed method.

[b] "Any method in 40 CFR 98.234(a)" means any of the following methods: OGI as specified in 40 CFR 60.18 (40 CFR 98.234(a)(1)), Method 21 (40 CFR 98.234(a)(2)), Infrared laser beam illuminated instrument (40 CFR 98.234(a)(3)), Acoustic leak detection device (40 CFR 98.234(a)(5)), or OGI as specified in the proposed NSPS subpart OOOOa (40 CFR 98.234(a)(6)).

[c] Reporting is required for emissions from valves, connectors, open-ended lines, pressure relief valves, and meters but is optional for pumps.

[d] Reporting is required for emissions from valves, connectors, open-ended lines, pressure relief valves, and meters but is optional for flanges, instruments, and other components.

[e] Reporting is only required for emissions from vapor recovery compressors if this option is chosen.

In addition, the EPA is proposing to add three new reporting requirements for facilities conducting equipment leak surveys in all of the above segments as well as the Natural Gas Distribution segment. First, facilities in those segments would be required to report the method(s) in 40 CFR 98.234(a) used to conduct the survey(s). Second, facilities would be required to indicate whether any of their component types are subject to the NSPS subpart OOOOa. Finally, facilities would be required to indicate whether they elected to use the equipment leak survey methodology for any of their component types.

C. How did we select the proposed leaker emission factors?

As a first step, the EPA is proposing to align the subpart W equipment components with the proposed NSPS subpart OOOOa definition of "fugitive emissions component," to the extent practical. A "fugitive emissions component" is proposed by the NSPS subpart OOOOa to include any component that has the potential to emit fugitive emissions of CH_4 or volatile organic compounds (VOC) at a well site or compressor station site, including but not limited to valves, connectors, pressure relief devices, open-ended lines, access doors, flanges, closed vent systems, thief hatches or other openings on storage vessels, agitator seals, distance pieces, crankcase vents, blowdown vents, pump seals or diaphragms, compressors, separators, pressure vessels, dehydrators, heaters, instruments, and meters. We are not proposing to consider devices that vent as part of normal operations, such as natural gas-driven pneumatic controllers or natural gas-driven pumps, as fugitive emissions components, as the natural gas discharged from the device's vent is not considered a fugitive emission. Emissions originating from a location other than the vent, such as the seals around the bellows of a diaphragm pump, would be considered fugitive emissions.

Some of the components listed in the NSPS subpart OOOOa proposed definition of fugitive emissions component are already included as part of the subpart W equipment leaks calculation methodology, while other fugitive emissions components are specifically addressed in other calculation methodologies in subpart W.

For example, subpart W includes specific calculation methodologies for centrifugal and reciprocating compressors. If emissions from these certain compressor sources are observed during an OGI survey and these emissions are included as leaks in the subpart W equipment leak emissions calculation, then emissions from these sources could be double-counted. Therefore, we compared the list of components in the NSPS subpart OOOOa proposed definition of fugitive emissions component with the current methodologies in subpart W to identify which fugitive emissions components are already covered by an existing requirement in subpart W and which fugitive emissions components would be specifically covered as an equipment leak component in subpart W when using the OGI method as specified in the proposed NSPS subpart OOOOa.

Based on this evaluation, we determined that the subpart W calculation methodology for storage tanks already generally includes emissions from thief hatches or other openings on storage vessels. Similarly, the subpart W methodologies for gas-liquid separators include all potential emissions from these sources. Therefore, these sources are not considered equipment leak components in the proposed amendments to subpart W. We request comment on whether the EPA should consider separate approaches for controlled storage tanks and uncontrolled storage tanks.

We also evaluated the subpart W compressor emission calculation methodologies to identify sources of overlap between these methodologies and the fugitive emission components included in the proposed NSPS subpart OOOOa. As noted previously, subpart W has specific calculation methodologies for centrifugal and reciprocating compressors. For centrifugal compressors, emission sources include wet seal oil degassing vent (for centrifugal compressors with wet seals), blowdown valve leakage, and isolation valve leakage. For reciprocating compressors, emission sources include reciprocating compressor rod packing vents, blowdown valve leakage, and isolation valve leakage. For compressors in the Onshore Petroleum and Natural Gas Production and the Onshore Petroleum and Natural Gas Gathering and Boosting industry segments, the compressor methods only cover emissions from the centrifugal compressor wet seal oil degassing vent and from the reciprocating compressor rod packing vent. Thus, for these industry segments, blowdown valve leakage and isolation valve leakage are proposed to be included as equipment leaks. For the Natural Gas Processing, Onshore Natural Gas Transmission Compression, Underground Natural Gas Storage, LNG Storage, and LNG Import and Export Equipment segments, subpart W requires reporters to make ''as found'' or continuous measurements for compressor emission sources, so the reporters will have either direct measurement data or site-specific emission factors by which to calculate emissions from all of the compressor sources listed above. Therefore, we are proposing to exclude these sources from the equipment leak calculation requirements.

We are also proposing that for purposes of subpart W, all other fugitive emissions components as defined in the proposed NSPS subpart OOOOa not specifically identified above (*e.g.,* storage tanks, gas-liquid separators, and compressor sources with explicit calculation methods in subpart W) would be considered equipment components when conducting an equipment leak survey using the OGI method as specified in the proposed NSPS subpart OOOOa.

We note that some studies have identified unusually large fugitive emissions from some sources while conducting OGI or other advanced innovative monitoring studies. Often in these cases, a majority of emissions come from a minority of sources. This means that some sources have emissions significantly higher than would be calculated using average emission factors and average component types. Sources included in the subset of a data set that contribute to the majority of emissions are sometimes referred to as ''super emitters.'' [11] These ''super emitters'' may include emissions from a number of different components, including thief hatches and holes that develop in equipment or vessels due to corrosion. As noted previously, these emission sources are already generally included in the subpart W calculation methodology for storage tanks, but for most other emission source types, we are proposing to include holes and other openings as part of the equipment leak requirements. We request comment on ways to more accurately account for these and other ''super emitting'' sources in the proposed calculation methods for equipment leaks.

Next, we reviewed available literature studies in order to determine appropriate leaker emission factors separately for the relevant industry segments. For the Onshore Petroleum and Natural Gas Production industry segment, we first evaluated the EPA/Gas Research Institute (GRI) data set on which the current subpart W population emission factors are based. The EPA/GRI data set is based on surveys conducted using EPA Method 21 with a leak defined as a monitor reading of 10,000 ppmv or higher. We also evaluated more recent studies conducted at natural gas production facilities. As described in greater detail in the memorandum entitled ''Technical Support for Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems'' in Docket ID No. EPA–HQ–OAR–2015–0764, we concluded that the EPA/GRI data set provides sufficient data to develop leaker emission factors for this industry segment and that using this data set for the leaker emission factors provides consistency with the population emission factors used by reporters that do not conduct leak detection surveys. Due to differences in the monitoring methods, it is possible that the average emissions rate of a leak identified using EPA Method 21 may be different from the average emissions rate of a leak identified using OGI. While the OGI study data generally yielded larger leaker factors than those developed from the EPA/GRI data set, we found that leaker emission factors determined from more recent OGI study data for natural gas production facilities agreed reasonably well with the leaker emission factors developed from the EPA/GRI data set, suggesting that the EPA/GRI leaker emission factor estimates are still valid for this industry segment. Furthermore, the EPA/GRI data set is more robust for some components than some of the other studies, and the resulting leaker emission factors are well-established. We request comment on the basis for the leaker emission factors for the Onshore Petroleum and Natural Gas Production industry segment (*i.e.,* whether it is appropriate to use solely the EPA/GRI data, use solely data from OGI monitoring studies, composite all available data to develop the leaker emission factors, or use other study data).

For the Onshore Petroleum and Natural Gas Gathering and Boosting industry segment, the more recent OGI studies again suggested that the average

[11] For example: Subramanian, R., *et al.,* 2015, ''Methane Emissions from Natural Gas Compressor Stations in the Transmission and Storage Sector: Measurements and Comparisons with the EPA Greenhouse Gas Reporting Program Protocol,'' *Environ. Sci. Technol.,* vol. 49, pp. 3252–3261, February 10, 2015.

leaker emissions may be somewhat higher than those developed from the EPA/GRI data set for most components. However, when we considered only those component types that had a high number of measurements, there was generally reasonable agreement between the emission factors developed from the more recent OGI studies and those developed from the EPA/GRI data set. It is unclear if the differences noted are due to differences in the leak detection method, differences in the industry components or both. However, after reviewing the available data, we determined it was appropriate to use the leaker emission factors developed from the EPA/GRI data set for the Onshore Petroleum and Natural Gas Gathering and Boosting industry segment, so that the Onshore Petroleum and Natural Gas Production and Onshore Petroleum and Natural Gas Gathering and Boosting industry segments would share a common set of leaker factors, consistent with the use of the same population emission factors for these industry segments. We request comment on the basis for the leaker emission factors for the Onshore Petroleum and Natural Gas Gathering and Boosting industry segment.

The Onshore Natural Gas Processing industry segment has leaker emission factors in subpart W for most traditional equipment leak components. Based on the proposed NSPS subpart OOOOa, the fugitive emissions monitoring requirements for this industry segment would be limited to ''equipment,'' which includes pumps, pressure relief devices, open-ended lines, valves, flanges and other connectors. Subpart W currently includes leaker emission factors in Table W–2 for all of these equipment component types except pumps. Therefore, we are proposing to add a leaker emission factor for pumps to Table W–2 based on the data set used to develop the existing leaker emission factors for the Onshore Natural Gas Processing industry segment. We request comment on the basis for the leaker emission factors for pumps in the Onshore Natural Gas Processing industry segment.

The NSPS subpart OOOOa proposed definition of fugitive emissions components includes a number of other components that are not the traditional ''equipment'' covered by traditional EPA Method 21 monitoring programs. In many cases, these additional components are not already included in other calculation methodologies in subpart W and should be considered within the subpart W equipment leak calculation methodologies. Therefore, we determined it necessary to develop additional leaker emission factors to augment the existing leaker emission factors in Tables W–3 through W–6 of subpart W in order to harmonize the subpart W equipment leak calculations with the proposed requirements in the NSPS subpart OOOOa. First, we reviewed the existing leaker emission factors in Tables W–3 through W–6 compared to the proposed definition of ''fugitive emissions components'' in the proposed NSPS subpart OOOOa to identify any discrepancies. Based on this review, we identified certain fugitive emissions components for which new leaker emission factors were needed. Therefore, we are proposing new leaker emission factors for flanges and ''other'' fugitive components and proposing to expand the existing leaker emission factor for meters to also include instruments in Tables W–3 and W–4 for the Onshore Natural Gas Transmission Compression and Underground Natural Gas Storage industry segments, respectively. We are also proposing to add leaker emission factors for traditional equipment components for storage wellheads for equipment in gas service within Table W–4. We are proposing to add these same leaker emission factors for traditional equipment components in gas service for LNG storage components within Table W–5 and for LNG terminal components within Table W–6.

Consistent with the approach used for developing the new leaker emission factors for the Onshore Petroleum and Natural Gas Production and Onshore Petroleum and Natural Gas Gathering and Boosting segments, we used the same historic data sets upon which the existing leaker emission factors were developed to develop leaker emission factors for these additional components. For more detail regarding the development of these additional leaker emission factors for the Onshore Natural Gas Transmission Compression, the Underground Natural Gas Storage, the LNG Storage, and the LNG Import and Export Equipment industry segments, see the memorandum ''Technical Support for Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems'' in Docket ID No. EPA–HQ–OAR–2015–0764. We request comment on the basis for the proposed new leaker emission factors for these industry segments.

III. Proposed Confidentiality Determinations

A. Overview and Background

In this proposed rulemaking, we are proposing confidentiality determinations for nine new or substantially revised data elements proposed to be reported by the following segments: Onshore Petroleum and Natural Gas Production; Onshore Petroleum and Natural Gas Gathering and Boosting; Onshore Natural Gas Processing; Onshore Natural Gas Transmission Compression; Underground Natural Gas Storage; LNG Storage; LNG Import and Export Equipment, and Natural Gas Distribution. These data elements include new or substantially revised reporting requirements for existing facilities already reporting under subpart W. The data elements are: (1) The number of complete equipment leak surveys performed during the calendar year; (2) whether any equipment leak component types are subject to the NSPS subpart OOOOa; (3) whether a reporter elected to report to subpart W using the equipment leak survey methodology; (4) the method(s) in 40 CFR 98.234(a) used to conduct the leak survey; (5) component type; (6) the number of each type of component identified as leaking; (7) the average time each type of surveyed components is assumed to be leaking and operational; (8) annual CO_2 emissions by component type; and (9) annual CH_4 emissions by component type.

The final confidentiality determinations the EPA has previously made for the remainder of the subpart W data elements are unaffected by these proposed amendments and continue to apply. For information on confidentiality determinations for the GHGRP and subpart W data elements, see: 75 FR 39094, July 7, 2010; 76 FR 30782, May 26, 2011; 77 FR 48072, August 13, 2012; 79 FR 63750, October 24, 2014; 79 FR 70385, November 25, 2014; and 80 FR 64262, October 22, 2015. These proposed confidentiality determinations would be finalized after considering public comment. The EPA plans to finalize these determinations at the same time the proposed amendments described in this rulemaking are finalized.

B. Approach to Proposed CBI Determinations

We are applying the same approach as previously used for making confidentiality determinations for data elements reported under the GHGRP. In the ''Confidentiality Determinations for Data Required Under the Mandatory Greenhouse Gas Reporting Rule and Amendments to Special Rules Governing Certain Information Obtained Under the Clean Air Act'' (hereafter referred to as ''2011 Final CBI Rulemaking'') (76 FR 30782, May 26,

2011), the EPA grouped part 98 data elements into 22 data categories (11 direct emitter data categories and 11 supplier data categories) with each of the 22 data categories containing data elements that are similar in type or characteristics. The EPA then made categorical confidentiality determinations for eight direct emitter data categories and eight supplier data categories and applied the categorical confidentiality determination to all data elements assigned to the category. Of these data categories with categorical determinations, the EPA determined that four direct emitter data categories are comprised of those data elements that meet the definition of ''emissions data,'' as defined at 40 CFR 2.301(a), and are, therefore, not entitled to confidential treatment under section 114(c) of the CAA.[12] The EPA determined that the other four direct emitter data categories and the eight supplier data categories do not meet the definition of ''emission data.'' For these data categories that are determined not to be emission data, the EPA determined categorically that data in three direct emitter data categories and five supplier data categories are eligible for confidential treatment as CBI, and that the data in one direct emitter data category and three supplier data categories are ineligible for confidential treatment as CBI. For two direct emitter data categories, ''Unit/Process 'Static' Characteristics that Are Not Inputs to Emission Equations'' and ''Unit/Process Operating Characteristics that Are Not Inputs to Emission Equations,'' and three supplier data categories, ''GHGs Reported,'' ''Production/Throughput Quantities and Composition,'' and ''Unit/Process Operating Characteristics,'' the EPA determined in the 2011 Final CBI Rulemaking that the data elements assigned to those categories are not emission data, but the EPA did not make categorical CBI determinations for them. Rather, the EPA made CBI determinations for each individual data element included in those categories on a case-by-case basis taking into consideration the criteria in 40 CFR 2.208. The EPA did not make a final confidentiality determination for data elements assigned to the inputs to emission equation data category (a direct emitter data category) in the 2011 Final CBI Rulemaking. However, the EPA has since proposed and finalized an approach for addressing disclosure concerns associated with inputs to emissions equations.[13]

For this rulemaking, we are proposing to assign nine new or revised data elements to the appropriate direct emitter data categories created in the 2011 Final CBI Rulemaking based on the type and characteristics of each data element.[14] Note that subpart W is a direct emitter source category, thus, no data are assigned to any supplier data categories.

For the seven data elements that the EPA has assigned in this proposed rulemaking to a direct emitter category with a categorical determination (data elements (1) through (5), (8), and (9), as listed in section III.A of this preamble), the EPA is proposing that the categorical determination for the category be applied to the proposed new or revised data element. For the proposed categorical assignment of the data elements in the eight categories with categorical determinations, see the memorandum ''Data Category Assignments and Confidentiality Determinations for All Data Elements in the Proposed 'Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems' '' in Docket ID No. EPA–HQ–OAR–2015–0764.

For the two data elements assigned to ''Unit/Process Operating Characteristics that Are Not Inputs to Emission Equations'' (data elements (6) and (7), as listed in section III.A of this preamble), we are proposing confidentiality determinations on a case-by-case basis taking into consideration the criteria in 40 CFR 2.208, consistent with the approach used for data elements previously assigned to this data category. For the proposed categorical assignment of these data elements, see the memorandum ''Data Category Assignments and Confidentiality Determinations for All Data Elements in the Proposed 'Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems' '' in Docket ID No. EPA–HQ–OAR–2015–0764. For the results of our case-by-case evaluation of these data elements, see section III.C of this preamble.

C. Proposed Confidentiality Determinations for Data Elements Assigned to the ''Unit/Process Operating Characteristics That Are Not Inputs to Emission Equations'' Data Category

The EPA is proposing to assign two proposed new or substantially revised data elements for subpart W to the ''Unit/Process Operating Characteristics That Are Not Inputs to Emission Equations'' data category because the proposed new or substantially revised data elements share the same characteristics as the other data elements previously assigned to the category in earlier EPA rulemakings (see 77 FR 48072, August 13, 2012; and 79 FR 70352, November 25, 2014). We are proposing confidentiality determinations for these proposed new or substantially revised data elements based on the approach set forth in the 2011 Final CBI Rulemaking for data elements assigned to this data category. In that rulemaking, the EPA determined categorically that data elements assigned to this data category do not meet the definition of emission data in 40 CFR 2.301(a); the EPA then made individual, instead of categorical, confidentiality determinations for these data elements. For more information on how the confidentiality determinations apply to specific industry segments, see the memorandum ''Data Category Assignments and Confidentiality Determinations for All Data Elements in the Proposed 'Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems' '' in Docket ID No. EPA–HQ–OAR–2015–0764.

As with all other data elements assigned to this data category, the proposed new or substantially revised data elements do not meet the definition of emissions data in 40 CFR 2.301(a). The EPA then considered the confidentiality criteria at 40 CFR 2.208 in making our proposed confidentiality determinations. Specifically, we focused on whether the data are already publicly available from other sources and, if not, whether disclosure of the data is likely to cause substantial harm to the business' competitive position. Table 3 of this preamble lists the data elements that the EPA proposes to assign to the ''Unit/Process Operating Characteristics That Are Not Inputs to Emission

[12] Direct emitter data categories that meet the definition of ''emission data'' in 40 CFR 2.301(a) are ''Facility and Unit Identifier Information,'' ''Emissions,'' ''Calculation Methodology and Methodological Tier,'' and ''Data Elements Reported for Periods of Missing Data that are not Inputs to Emission Equations.''

[13] Revisions to Reporting and Recordkeeping Requirements, and Confidentiality Determinations Under the Greenhouse Gas Reporting Program; Final Rule. (79 FR 63750, October 24, 2014).

[14] For a description of the types and characteristics of the data elements in each of these data categories, please see ''Proposed Confidentiality Determinations for Data Required Under the Mandatory Greenhouse Gas Reporting Rule and Proposed Amendment to Special Rules Governing Certain Information Obtained Under the Clean Air Act; Proposed Rule'' (75 FR 39094; July 7, 2010).

Equations'' data category, the proposed confidentiality determination for each data element, and our rationale for each determination.

TABLE 3—PROPOSED CONFIDENTIALITY FOR DATA ELEMENTS ASSIGNED TO THE ''UNIT/PROCESS OPERATING CHARACTERISTICS THAT ARE NOT INPUTS TO EMISSION EQUATIONS'' DATA CATEGORY

Citation	Data element	Proposed confidentiality determination and rationale
§ 98.236(q)(2)(ii)	For each component type that is located at your facility, total number of the surveyed component type that were identified as leaking in the calendar year (''x_p'' in Equation W–30).	Not CBI. The term ''equipment leaks'' refers to those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening. Leaking components at a facility may have a correlation to the level of maintenance at a facility. However, there is no direct correlation between the level of maintenance and process efficiency, *i.e.*, a higher number of leaks in one facility do not indicate that the processes have been running longer or more frequently than those processes at another facility that has a lower number of leaks. Furthermore, Department of Transportation (DOT) and Federal Energy Regulatory Commission (FERC) regulations require natural gas distribution companies and transmission pipeline companies, respectively, to conduct periodic leak detection and fix any leaking equipment. The number of leaks detected and fixed is reported to the DOT and is publicly available. Finally, 40 CFR part 60, subparts KKK and OOOO require natural gas processing facilities to monitor for VOC leaks and report them to the EPA, and proposed 40 CFR part 60, subpart OOOOa would require reporting for each component with visible emissions at affected well sites and compressor station sites. The EPA is proposing that this data element is not confidential; and that it will be considered non-CBI.
§ 98.236(q)(2)(iii)	For each component type that is located at your facility, average time the surveyed components are assumed to be leaking and operational, in hours (average of ''$T_{p,z}$'' from Equation W–30).	Not CBI. This proposed data element would provide information on the amount of time operational components were found to be leaking. This information would provide little insight into maintenance practices at a facility because it would not identify the cause of the leaks or the nature and cost of repairs. Therefore, this information would not be likely to cause substantial competitive harm to reporters. For this reason, we are proposing the average time operational components were found leaking be designated as ''not CBI.''

D. Request for Comments on Proposed Confidentiality Determinations

For the CBI component of this rulemaking, we are specifically soliciting comment on the following issues. First, we specifically seek comment on the proposed data category assignments, and application of the established categorical confidentiality determinations to data elements assigned to categories with such determinations. If a commenter believes that the EPA has improperly assigned certain new or substantially revised data elements to any of the data categories established in the 2011 Final CBI Rulemaking, please provide specific comments identifying which of these data elements may be mis-assigned along with a detailed explanation of why you believe them to be incorrectly assigned and in which data category you believe they belong. In addition, if you believe that a data element should be assigned to one of the two direct emitter data categories that do not have a categorical confidentiality determination, please also provide specific comment along with detailed rationale and supporting information on whether such a data element does or does not qualify as CBI.

We also seek comment on the proposed individual confidentiality determinations for the two new or substantially revised data elements assigned to the ''Unit/Process Operating Characteristics That Are Not Inputs to Emission Equations'' data category.

By proposing confidentiality determinations prior to data reporting through this proposal and rulemaking process, we provide reporters an opportunity to submit comments, in particular comments identifying data they consider sensitive and their rationales and supporting documentation; this opportunity is the same opportunity that is afforded to submitters of information in case-by-case confidentiality determinations made in response to individual claims for confidential treatment not made through a rulemaking. It provides an opportunity to rebut the agency's proposed determinations prior to finalization. We will evaluate the comments on our proposed determinations, including claims of confidentiality and information substantiating such claims, before finalizing the confidentiality determinations. Please note that this will be a reporter's only opportunity to substantiate a confidentiality claim for the data elements identified in this rulemaking. Upon finalizing the confidentiality determinations of the data elements identified in this rulemaking, the EPA will release or withhold these data in accordance with 40 CFR 2.301, which contains special provisions governing the treatment of part 98 data for which confidentiality determinations have been made through rulemaking.

When submitting comments regarding the confidentiality determinations we are proposing in this rulemaking, please identify each individual data element you do or do not consider to be CBI or emission data in your comments. Please explain specifically how the public release of that particular data element would or would not cause a competitive disadvantage to a facility. Discuss how this data element may be different from or similar to data that are already publicly available. Please submit information identifying any publicly available sources of information containing the specific data elements in question. Data that are already available through other sources would likely be found not to qualify for CBI protection. In your comments, please identify the manner and location in which each specific data element you identify is publicly available, including a citation. If the data are physically published, such as in a book, industry trade publication, or federal agency

publication, provide the title, volume number (if applicable), author(s), publisher, publication date, and International Standard Book Number (ISBN) or other identifier. For data published on a Web site, provide the address of the Web site and the date you last visited the Web site and identify the Web site publisher and content author.

If your concern is that competitors could use a particular data element to discern sensitive information, specifically describe the pathway by which this could occur and explain how the discerned information would negatively affect your competitive position. Describe any unique process or aspect of your facility that would be revealed if the particular data element you consider sensitive were made publicly available. If the data element you identify would cause harm only when used in combination with other publicly available data, then describe the other data, identify the public source(s) of these data, and explain how the combination of data could be used to cause competitive harm. Describe the measures currently taken to keep the data confidential. Avoid conclusory and unsubstantiated statements, or general assertions regarding potential harm. Please be as specific as possible in your comments and include all information necessary for the EPA to evaluate your comments.

IV. Impacts of the Proposed Amendments to Subpart W

As discussed in section II of this preamble, the EPA is proposing amendments to subpart W that would add equipment leak monitoring methods and would revise recordkeeping and reporting requirements for reporters in the following industry segments: Onshore Petroleum and Natural Gas Production, Onshore Petroleum and Natural Gas Gathering and Boosting, Onshore Natural Gas Processing, Onshore Natural Gas Transmission Compression, Underground Natural Gas Storage, LNG Storage, LNG Import and Export Equipment, and Natural Gas Distribution. Reporters in these industry segments would be required to use the results of fugitive emissions component monitoring required under the proposed NSPS subpart OOOOa or could voluntarily use the results of leak detection surveys that are conducted following a leak detection method listed in subpart W to determine the number of leaking components of a given type that are present at the facility. Facilities would use these results along with the proposed leaker emission factors to determine their emissions.

The proposed amendments to subpart W are not expected to significantly increase burden. We estimated that the additional costs to reporters in the Onshore Petroleum and Natural Gas Production and the Onshore Petroleum and Natural Gas Gathering and Boosting industry segments to transition their existing equipment leak recordkeeping, calculating, and reporting systems to use the proposed leaker emission factor approach would be approximately $50,000 per year for all reporters, or about $200 per reporter. Reporters in the other industry segments in subpart W would only need to add a few new emission factors to their existing systems rather than transitioning their recordkeeping, calculating, and reporting systems, so we do not estimate any additional burden for these facilities. See the memorandum, ''Assessment of Impacts of the Proposed Leak Detection Methodology Revisions to Subpart W'' in Docket ID No. EPA–HQ–OAR–2015–0764 for additional information.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the OMB for review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2300.19. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

This action proposes to increase burden related to recordkeeping and reporting requirements for reporters in two industry segments: Onshore Petroleum and Natural Gas Production and Onshore Petroleum and Natural Gas Gathering and Boosting. The changes to recordkeeping and reporting requirements for the other industry segments in this proposed rulemaking are not expected to increase burden. Impacts associated with the proposed changes to the recordkeeping and reporting requirements are detailed in the memorandum ''Assessment of Impacts of the Proposed Leak Detection Methodology Revisions to Subpart W'' (see Docket ID No. EPA–HQ–OAR–2015–0764).

Data collected must be made available to the public unless the data qualify for CBI treatment under the CAA and EPA regulations. All data determined by the EPA to be CBI are safeguarded in accordance with regulations in 40 CFR chapter 1, part 2, subpart B.

Respondents/affected entities: The respondents in this information collection include owners and operators of petroleum and natural gas systems facilities that report their GHG emissions from equipment leaks to the EPA to comply with subpart W.

Respondent's obligation to respond: The respondent's obligation to respond is mandatory under the authority provided in CAA section 114.

Estimated number of respondents: Approximately 251 respondents per year.

Frequency of response: Annual.

Total estimated burden: 502 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $50,000 (per year).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *oria_submissions@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than February 29, 2016. The EPA will respond to any ICR-related comments in the final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action would not have a significant economic impact on a substantial number of small entities under the RFA. The small entities directly regulated by this proposed rule include small businesses in the petroleum and natural gas industry. The EPA has determined that some small businesses would be affected because their production processes emit GHGs exceeding the reporting threshold. This action includes proposed amendments

that may result in a small burden increase on some subpart W reporters, but the EPA has determined that the cost of less than $200 per reporter is not a significant increase. Details of this analysis are presented in ''Assessment of Impacts of the Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems'' in Docket ID No. EPA–HQ–OAR–2015–0764.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action would impose no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action has tribal implications. However, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. This regulation would apply directly to petroleum and natural gas facilities that emit greenhouses gases. Although few facilities that would be subject to the rule are likely to be owned by tribal governments, the EPA sought opportunities to provide information to tribal governments and representatives during the development of the proposed and final subpart W that was promulgated on November 30, 2010 (75 FR 74458).

The EPA consulted with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this regulation to permit them to have meaningful and timely input into its development. A summary of that consultation is provided in section IV.F of the preamble to the re-proposal of subpart W published on April 12, 2010 (75 FR 18608), and section IV.F of the preamble to the subpart W 2010 final rule published on November 30, 2010 (75 FR 74458).

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks, that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action would not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because the amendments would not affect the level of protection provided to human health or the environment. Instead, the proposed amendments address information collection and reporting and verification procedures.

List of Subjects in 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: January 21, 2016.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 98—MANDATORY GREENHOUSE GAS REPORTING

■ 1. The authority citation for part 98 continues to read as follows:

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

Subpart W—Petroleum and Natural Gas Systems

■ 2. § 98.232 is amended by:
■ a. Adding paragraphs (d)(8) and (e)(8);
■ b. Revising paragraph (f)(5);
■ c. Adding paragraphs (f)(6) through (8);
■ d. Revising paragraphs (g)(3) and (4);
■ e. Adding paragraphs (g)(5) and (6);
■ f. Revising paragraphs (h)(4) and (5); and
■ g. Adding paragraphs (h)(6) and (7).

The revisions and additions read as follows:

§ 98.232 GHGs to report.

* * * * *

(d) * * *

(8) Equipment leaks from pumps that are subject to 40 CFR part 60, subpart OOOOa. You may also elect to report emissions from pumps if you survey them using a leak detection method described in § 98.234(a) and are not subject to 40 CFR part 60, subpart OOOOa.

(e) * * *

(8) Equipment leaks from all equipment leak component types, except those listed in paragraph (e)(7) of this section, that are subject to 40 CFR part 60, subpart OOOOa. You may also elect to report emissions from these equipment leak component types if you survey them using a leak detection method described in § 98.234(a) and are not subject to 40 CFR part 60, subpart OOOOa.

(f) * * *

(5) Equipment leaks from valves, connectors, open ended lines, pressure relief valves, and meters associated with storage stations.

(6) Equipment leaks from all equipment leak component types associated with storage stations, except those listed in paragraph (f)(5) of this section, that are subject to 40 CFR part 60, subpart OOOOa. You may also elect to report emissions from these equipment leak component types if you survey them using a leak detection method described in § 98.234(a) and are not subject to 40 CFR part 60, subpart OOOOa.

(7) Equipment leaks from valves, connectors, open-ended lines, and pressure relief valves associated with storage wellheads.

(8) Equipment leaks from all equipment leak component types associated with storage wellheads, except those listed in paragraph (f)(7) of this section, that are subject to 40 CFR part 60, subpart OOOOa. You may also elect to report emissions from these equipment leak component types if you survey them using a leak detection

method described in § 98.234(a) and are not subject to 40 CFR part 60, subpart OOOOa.

(g) * * *

(3) Flare stack emissions.

(4) Equipment leaks from valves, pump seals, connectors, and other equipment leak sources in LNG service.

(5) Equipment leaks from vapor recovery compressors that are not subject to 40 CFR part 60, subpart OOOOa.

(6) Equipment leaks from all equipment leak component types in gas service that are subject to 40 CFR part 60, subpart OOOOa. You may also elect to report emissions from these equipment leak component types if you survey them using a leak detection method described in § 98.234(a) and are not subject to 40 CFR part 60, subpart OOOOa.

(h) * * *

(4) Flare stack emissions.

(5) Equipment leaks from valves, pump seals, connectors, and other equipment leak sources in LNG service.

(6) Equipment leaks from vapor recovery compressors that are not subject to 40 CFR part 60, subpart OOOOa.

(7) Equipment leaks from all equipment leak component types in gas service that are subject to 40 CFR part 60, subpart OOOOa. You may also elect to report emissions from these equipment leak component types if you survey them using a leak detection method described in § 98.234(a) and are not subject to 40 CFR part 60, subpart OOOOa.

* * * * *

■ 3. § 98.233 is amended by revising paragraph (q) and the first two sentences of paragraph (r)(1) introductory text to read as follows:

§ 98.233 Calculating GHG emissions.

* * * * *

(q) *Equipment leak surveys.* (1) *Applicability.* (i) Except as specified in paragraph (q)(1)(iv) of this section, you must use any of the methods described in § 98.234(a) to conduct leak detection(s) of equipment leaks from all equipment leak component types listed in § 98.232(d)(7), (e)(7), (f)(5), (g)(4), (h)(5), and (i)(1), and you must calculate equipment leak emissions for these equipment leak component types using the procedures specified in paragraph (q)(2) of this section.

(ii) Except as specified in paragraph (q)(1)(iv) of this section, equipment component types in § 98.232(c)(21), (d)(8), (e)(8), (f)(6), (f)(7), (f)(8), (g)(6), (h)(7), and (j)(10) that are subject to 40 CFR part 60, subpart OOOOa are subject to the equipment leak emissions calculation procedures in paragraph (q)(2) of this section.

(iii) Except as specified in paragraph (q)(1)(iv) of this section, you may elect to comply with this paragraph (q) (*i.e.,* use any of the methods described in § 98.234(a) to conduct leak detections, and use the procedures specified in paragraph (q)(2) of this section to calculate emissions) for any equipment leak component types in § 98.232(c)(21), (d)(8), (e)(8), (f)(6), (f)(7), (f)(8), (g)(6), (h)(7), and (j)(10) that are not subject to paragraph (q)(1)(ii) of this section.

(iv) This paragraph (q) applies to component types in streams with gas content greater than 10 percent CH_4 plus CO_2 by weight. Component types in streams with gas content less than or equal to 10 percent CH_4 plus CO_2 by weight are exempt from the requirements of this paragraph (q) and do not need to be reported. Tubing systems equal to or less than one half inch diameter are exempt from the requirements of this paragraph (q) and do not need to be reported.

(2) *Emission calculation methodology.* For industry segments listed in § 98.230(a)(2) through (9), if equipment leaks are detected for component types listed in paragraphs (q)(1)(i) through (iii) of this section, then you must calculate equipment leak emissions per component type per reporting facility using Equation W–30 of this section and the requirements specified in paragraphs (q)(2)(i) through (xi) of this this section. For the industry segment listed in § 98.230(a)(8), the results from Equation W–30 are used to calculate population emission factors on a meter/regulator run basis using Equation W–31 of this section. If you chose to conduct equipment leak surveys at all above grade transmission-distribution transfer stations over multiple years, ''n,'' according to paragraph (q)(2)(x)(A) of this section, then you must calculate the emissions from all above grade transmission-distribution transfer stations as specified in paragraph (q)(2)(xi) of this section.

$$E_{s,p,i} = GHG_i * EF_{s,p} * \sum_{z=1}^{x_p} T_{p,z} \qquad \text{(Eq. W-30)}$$

Where:

$E_{s,p,i}$ = Annual total volumetric emissions of GHG_i from specific component type ''p'' (in accordance with paragraphs (q)(1)(i) through (iii) of this section) in standard (''s'') cubic feet, as specified in paragraphs (q)(2)(ii) through (x) of this section.

x_p = Total number of specific component type ''p'' detected as leaking in any leak survey during the year. A component found leaking in two or more surveys during the year is counted as one leaking component.

$EF_{s,p}$ = Leaker emission factor for specific component types listed in Table 1E and Table W–2 through Table W–7 of this subpart.

GHG_i = For onshore petroleum and natural gas production facilities and onshore petroleum and natural gas gathering and boosting facilities, concentration of GHG_i, CH_4, or CO_2, in produced natural gas as defined in paragraph (u)(2) of this section; for onshore natural gas processing facilities, concentration of GHG_i, CH_4 or CO_2, in the total hydrocarbon of the feed natural gas; for onshore natural gas transmission compression and underground natural gas storage, GHG_i equals 0.975 for CH_4 and 1.1×10^{-2} for CO_2 ; for LNG storage and LNG import and export equipment, GHG_i equals 1 for CH_4 and 0 for CO_2; and for natural gas distribution, GHG_i equals 1 for CH_4 and 1.1×10^{-2} CO_2.

$T_{p,z}$ = The total time the surveyed component ''z'', component type ''p'', was assumed to be leaking and operational, in hours. If one leak detection survey is conducted in the calendar year, assume the component was leaking for the entire calendar year. If multiple leak detection surveys are conducted in the calendar year, assume a component found leaking in the first survey was leaking since the beginning of the year; assume a component found leaking in the last survey of the year was leaking from the preceding survey through the end of the year; assume a component found leaking in a survey between the first and last surveys of the year was leaking since the preceding survey; and sum times for all leaking periods. For each leaking component, account for time the component was not operational (*i.e.,* not operating under pressure) using an engineering estimate based on best available data.

(i) You must conduct either one leak detection survey in a calendar year or multiple complete leak detection surveys in a calendar year. The leak detection surveys selected must be conducted during the calendar year.

(ii) Calculate both CO_2 and CH_4 mass emissions using calculations in paragraph (v) of this section.

(iii) Onshore petroleum and natural gas production facilities must use the appropriate default whole gas leaker emission factors for components in gas service, light crude service, and heavy crude service listed in Table W–1E of this subpart.

(iv) Onshore petroleum and natural gas gathering and boosting facilities must use the appropriate default whole gas leaker factors for components in gas service listed in Table W–1E of this subpart.

(v) Onshore natural gas processing facilities must use the appropriate default total hydrocarbon leaker emission factors for compressor components in gas service and non-compressor components in gas service listed in Table W–2 of this subpart.

(vi) Onshore natural gas transmission compression facilities must use the appropriate default total hydrocarbon leaker emission factors for compressor components in gas service and non-compressor components in gas service listed in Table W–3 of this subpart.

(vii) Underground natural gas storage facilities must use the appropriate default total hydrocarbon leaker emission factors for storage stations in gas service listed in Table W–4 of this subpart.

(viii) LNG storage facilities must use the appropriate default methane leaker emission factors for LNG storage components in gas service listed in Table W–5 of this subpart.

(ix) LNG import and export facilities must use the appropriate default methane leaker emission factors for LNG terminals components in LNG service listed in Table W–6 of this subpart.

(x) Natural gas distribution facilities must use Equation W–30 of this section and the default methane leaker emission factors for transmission-distribution transfer station components in gas service listed in Table W–7 of this subpart to calculate component emissions from annual equipment leak surveys conducted at above grade transmission-distribution transfer stations. Natural gas distribution facilities are required to perform equipment leak surveys only at above grade stations that qualify as transmission-distribution transfer stations. Below grade transmission-distribution transfer stations and all metering-regulating stations that do not meet the definition of transmission-distribution transfer stations are not required to perform equipment leak surveys under this section.

(A) Natural gas distribution facilities may choose to conduct equipment leak surveys at all above grade transmission-distribution transfer stations over multiple years ''n'', not exceeding a five year period to cover all above grade transmission-distribution transfer stations. If the facility chooses to use the multiple year option, then the number of transmission-distribution transfer stations that are monitored in each year should be approximately equal across all years in the cycle.

(B) Use Equation W–31 of this section to determine the meter/regulator run population emission factors for each GHG_i. As additional survey data become available, you must recalculate the meter/regulator run population emission factors for each GHG_i annually according to paragraph (q)(2)(x)(C) of this section.

$$EF_{s,MR,i} = \frac{\sum_{y=1}^{n}\sum_{p=1}^{7} E_{s,p,i,y}}{\sum_{y=1}^{n}\sum_{w=1}^{Count_{MR,y}} T_{w,y}} \qquad \text{(Eq. W-31)}$$

Where:

$EF_{s,MR,i}$ = Meter/regulator run population emission factor for GHG_i based on all surveyed above grade transmission-distribution transfer stations over ''n'' years, in standard cubic feet of GHG_i per operational hour of all meter/regulator runs.

$E_{s,p,i,y}$ = Annual total volumetric emissions at standard conditions of GHG_i from component type ''p'' during year ''y'' in standard (''s'') cubic feet, as calculated using Equation W–30 of this section.

p = Seven component types listed in Table W–7 of this subpart for transmission-distribution transfer stations.

$T_{w,y}$ = The total time the surveyed meter/regulator run ''w'' was operational, in hours during survey year ''y'' using an engineering estimate based on best available data.

$Count_{MR,y}$ = Count of meter/regulator runs surveyed at above grade transmission-distribution transfer stations in year ''y''.

y = Year of data included in emission factor ''$EF_{s,MR,i}$'' according to paragraph (q)(2)(x)(C) of this section.

n = Number of years of data, according to paragraph (q)(8)(i) of this section, whose results are used to calculate emission factor ''$EF_{s,MR,i}$'' according to paragraph (q)(2)(x)(C) of this section.

(C) The emission factor ''$EF_{s,MR,i}$'', based on annual equipment leak surveys at above grade transmission-distribution transfer stations, must be calculated annually. If you chose to conduct equipment leak surveys at all above grade transmission-distribution transfer stations over multiple years, ''n,'' according to paragraph (q)(2)(x)(A) of this section and you have submitted a smaller number of annual reports than the duration of the selected cycle period of 5 years or less, then all available data from the current year and previous years must be used in the calculation of the emission factor ''$EF_{s,MR,i}$'' from Equation W–31 of this section. After the first survey cycle of ''n'' years is completed and beginning in calendar year (n+1), the survey will continue on a rolling basis by including the survey results from the current calendar year ''y'' and survey results from all previous $(n-1)$ calendar years, such that each annual calculation of the emission factor ''$EF_{s,MR,i}$'' from Equation W–31 is based on survey results from ''n'' years. Upon completion of a cycle, you may elect to change the number of years in the next cycle period (to be 5 years or less). If the number of years in the new cycle is greater than the number of years in the previous cycle, calculate ''$EF_{s,MR,i}$'' from Equation W–31 in each year of the new cycle using the survey results from the current calendar year and the survey results from the preceding number years that is equal to the number of years in the previous cycle period. If the number of years, ''n_{new}'', in the new cycle is smaller than the number of years in the previous cycle, ''n'', calculate ''$EF_{s,MR,i}$'' from Equation W–31 in each year of the new cycle using the survey results from the current calendar year and survey results from all previous $(n_{new}-1)$ calendar years.

(xi) If you chose to conduct equipment leak surveys at all above grade transmission-distribution transfer stations over multiple years, ''n,'' according to paragraph (q)(2)(x)(A) of this section, you must use the meter/regulator run population emission

factors calculated using Equation W–31 of this section and the total count of all meter/regulator runs at above grade transmission-distribution transfer stations to calculate emissions from all above grade transmission-distribution transfer stations using Equation W–32B in paragraph (r) of this section.

(r) * * * This paragraph (r) applies to emissions sources listed in § 98.232(c)(21), (f)(7), (g)(5), (h)(6), and (j)(10) that are not subject to the requirements in paragraph (q) of this section, and it applies to emission sources listed in § 98.232(i)(2), (i)(3), (i)(4), (i)(5), (i)(6), and (j)(11). To be subject to the requirements of this paragraph (r), the listed emissions sources also must contact streams with gas content greater than 10 percent CH_4 plus CO_2 by weight. Emissions sources that contact streams with gas content less than or equal to 10 percent CH_4 plus CO_2 by weight are exempt from the requirements of this paragraph (r) and do not need to be reported. * * *

* * * * *

■ 4. § 98.234 is amended by revising paragraph (a) introductory text and the paragraph (a)(1) heading and adding paragraph (a)(6) to read as follows:

§ 98.234 Monitoring and QA/QC requirements.

* * * * *

(a) You must use any of the methods described in paragraphs (a)(1) through (5) of this section to conduct leak detection(s) of through-valve leakage from all source types listed in § 98.233(k), (o), and (p) that occur during a calendar year. You must use any of the methods described in paragraphs (a)(1) through (6) of this section to conduct leak detection(s) of equipment leaks from component types listed in § 98.233(q)(1)(i) and (iii) that occur during a calendar year. To conduct leak detection(s) of equipment leaks from component types listed in § 98.233(q)(1)(ii), you must use the method described in paragraph (a)(6) of this section.

(1) *Optical gas imaging instrument as specified in 40 CFR 60.18.* * * *

* * * * *

(6) *Optical gas imaging instrument as specified in 40 CFR 60.5397a.* Use an optical gas imaging instrument for equipment leak detection in accordance with § 60.5397a(b) through (e) and (g) through (i) of this chapter and paragraphs (a)(6)(i) through (v) of this section.

(i) For the purposes of this subpart, any fugitive emission from a fugitive emissions component, as defined in 40 CFR part 60, subpart OOOOa, that is detected by the optical gas imaging instrument is a leak.

(ii) For the purposes of this subpart, the term ''fugitive emissions component'' in § 60.5397a(b) through (i) of this chapter means ''equipment leak component.''

(iii) For the purpose of complying with § 98.233(q)(1)(iii), the phrases ''the collection of fugitive emissions components at well sites and compressor stations'' and ''each collection of fugitive emissions components at a well site and each collection of fugitive emissions components at a compressor station'' in § 60.5397a(b) and (g) of this chapter mean ''the collection of equipment leak components for which you elect to comply with § 98.233(q)(1)(iii).''

(iv) The requirements in § 60.5397a(c)(4) and (5) of this chapter to include procedures and timelines for repair in your monitoring plan do not apply to equipment leak components for which you elect to comply with § 98.233(q)(1)(iii).

(v) For the purpose of complying with § 98.233(q)(1)(iii), the reference in § 60.5397a(g) to ''the initial survey'' does not apply.

* * * * *

■ 5. § 98.236 is amended by:

■ a. Redesignating paragraphs (a)(1)(xiv) through (xvii) as paragraphs (a)(1)(xv) through (xviii), respectively;

■ b. Adding paragraph (a)(1)(xiv);

■ c. Redesignating paragraphs (a)(9)(x) and (xi) as paragraphs (a)(9)(xi) and (xii), respectively;

■ d. Adding paragraph (a)(9)(x);

■ e. Revising paragraph (q)(1) introductory text;

■ f. Adding paragraphs (q)(1)(iii) through (v); and

■ g. Revising the first sentence of paragraph (q)(2) introductory text.

The revisions and additions read as follows:

§ 98.236 Data reporting requirements.

* * * * *

(a) * * *

(1) * * *

(xiv) *Equipment leak surveys.* Report the information specified in paragraph (q) of this section.

* * * * *

(9) * * *

(x) *Equipment leak surveys.* Report the information specified in paragraph (q) of this section.

* * * * *

(q) * * *

(1) You must report the information specified in paragraphs (q)(1)(i) through (v) of this section.

* * * * *

(iii) Indicate whether any equipment leak component types were subject to 40 CFR part 60, subpart OOOOa.

(iv) Indicate whether you elected to comply with § 98.233(q)(1)(iii).

(v) Report each type of method described in § 98.234(a) that was used to conduct leak surveys.

(2) You must indicate whether your facility contains any of the component types subject to § 98.233(q) that are listed in § 98.232(c)(21), (d)(7), (d)(8), (e)(7), (e)(8), (f)(5), (f)(6), (f)(7), (f)(8), (g)(4), (g)(5), (g)(6), (h)(5), (h)(6), (h)(7), (j)(10), or (i)(1), for your facility's industry segment. * * *

* * * * *

■ 6. Add Table W–1E of subpart W of part 98 in numerical order to read as follows:

TABLE W–1E OF SUBPART W OF PART 98—DEFAULT WHOLE GAS LEAKER EMISSION FACTORS FOR ONSHORE PETROLEUM AND NATURAL GAS PRODUCTION AND ONSHORE PETROLEUM AND NATURAL GAS GATHERING AND BOOSTING

Equipment components	Emission factor (scf/hour/component)
Leaker Emission Factors—All Components, Gas Service [1]	
Valve	4.9
Flange	4.1
Connector (other)	1.3
Open-Ended Line [2]	2.8
Pressure Relief Valve	4.5
Pump Seal	3.7

TABLE W–1E OF SUBPART W OF PART 98—DEFAULT WHOLE GAS LEAKER EMISSION FACTORS FOR ONSHORE PETROLEUM AND NATURAL GAS PRODUCTION AND ONSHORE PETROLEUM AND NATURAL GAS GATHERING AND BOOSTING—Continued

Equipment components	Emission factor (scf/hour/component)
Other[3]	4.5
Leaker Emission Factors—All Components, Light Crude Service[4]	
Valve	3.2
Flange	2.7
Connector (other)	1.0
Open-Ended Line	1.6
Pump	3.7
Agitator Seal	3.7
Other[3]	3.1
Leaker Emission Factors—All Components, Heavy Crude Service[5]	
Valve	3.2
Flange	2.7
Connector (other)	1.0
Open-Ended Line	1.6
Pump	3.7
Agitator Seal	3.7
Other[3]	3.1

[1] For multi-phase flow that includes gas, use the gas service emission factors.
[2] The open-ended lines component type includes blowdown valve and isolation valve leaks emitted through the blowdown vent stack for centrifugal and reciprocating compressors.
[3] "Others" category includes any equipment leak emission point not specifically listed in this table, except for the following: It excludes thief hatches and all other potential emission points in gas service on atmospheric storage tanks, all potential emission points in gas service on gas-liquid separators, wet seal oil degassing vents from centrifugal compressors, and rod packing vents from reciprocating compressors.
[4] Hydrocarbon liquids greater than or equal to 20°API are considered "light crude."
[5] Hydrocarbon liquids less than 20°API are considered "heavy crude."

■ 7. Revise Table W–2 of subpart W of part 98 to read as follows:

TABLE W–2 TO SUBPART W OF PART 98—DEFAULT TOTAL HYDROCARBON EMISSION FACTORS FOR ONSHORE NATURAL GAS PROCESSING

Onshore natural gas processing plants	Emission factor (scf/hour/component)
Leaker Emission Factors—Compressor Components, Gas Service	
Valve[1]	14.84
Connector	5.59
Open-Ended Line	17.27
Pressure Relief Valve	39.66
Meter	19.33
Leaker Emission Factors—Non-Compressor Components, Gas Service	
Valve[1]	6.42
Connector	5.71
Open-Ended Line	11.27
Pressure Relief Valve	2.01
Meter	2.93
Pump	3.4

[1] Valves include control valves, block valves and regulator valves.

■ 8. Revise Table W–3 of subpart W of part 98 to read as follows:

TABLE W–3 TO SUBPART W OF PART 98—DEFAULT TOTAL HYDROCARBON EMISSION FACTORS FOR ONSHORE NATURAL GAS TRANSMISSION COMPRESSION

Onshore natural gas transmission compression	Emission factor (scf/hour/component)
Leaker Emission Factors—Compressor Components, Gas Service	
Valve [1]	14.84
Connector	5.59
Flange	5.59
Open-Ended Line	17.27
Pressure Relief Valve	39.66
Meter or Instrument	19.33
Other [2]	4.1
Leaker Emission Factors—Non-Compressor Components, Gas Service	
Valve [1]	6.42
Connector	5.71
Flange	5.71
Open-Ended Line	11.27
Pressure Relief Valve	2.01
Meter or Instrument	2.93
Other [2]	4.1
Population Emission Factors—Gas Service	
Low Continuous Bleed Pneumatic Device Vents [3]	1.37
High Continuous Bleed Pneumatic Device Vents [3]	18.20
Intermittent Bleed Pneumatic Device Vents [3]	2.35

[1] Valves include control valves, block valves and regulator valves.
[2] Other includes any potential equipment leak emission point in gas service that is not specifically listed in this table, except it excludes thief hatches and all other potential emission points in gas service on transmission storage tanks, and it excludes compressor emission points that are subject to § 98.233(o) or (p).
[3] Emission Factor is in units of ''scf/hour/device.''

■ 9. Revise Table W–4 of subpart W of part 98 to read as follows:

TABLE W–4 TO SUBPART W OF PART 98—DEFAULT TOTAL HYDROCARBON EMISSION FACTORS FOR UNDERGROUND NATURAL GAS STORAGE

Underground natural gas storage	Emission factor (scf/hour/component)
Leaker Emission Factors—Storage Station, Gas Service	
Valve [1]	14.84
Connector	5.59
Flange	5.59
Open-Ended Line	17.27
Pressure Relief Valve	39.66
Meter and Instrument	19.33
Other [2]	4.1
Population Emission Factors—Storage Wellheads, Gas Service	
Connector	0.01
Valve	0.1
Pressure Relief Valve	0.17
Open-Ended Line	0.03
Leaker Emission Factors—Storage Wellheads, Gas Service	
Valve [1]	4.5
Connector	1.2
Flange	3.8
Open-Ended Line	2.5
Pressure Relief Valve	4.1

TABLE W–4 TO SUBPART W OF PART 98—DEFAULT TOTAL HYDROCARBON EMISSION FACTORS FOR UNDERGROUND NATURAL GAS STORAGE—Continued

Underground natural gas storage	Emission factor (scf/hour/component)
Other [2]	4.1
Population Emission Factors—Other Components, Gas Service	
Low Continuous Bleed Pneumatic Device Vents [3]	1.37
High Continuous Bleed Pneumatic Device Vents [3]	18.20
Intermittent Bleed Pneumatic Device Vents [3]	2.35

[1] Valves include control valves, block valves and regulator valves.
[2] Other includes any potential equipment leak emission point in gas service that is not specifically listed in this table except that it does not include compressor emission points that are subject to § 98.233(o) or (p).
[3] Emission Factor is in units of ''scf/hour/device.''

■ 10. Revise Table W–5 of subpart W of part 98 to read as follows:

TABLE W–5 TO SUBPART W OF PART 98—DEFAULT METHANE EMISSION FACTORS FOR LIQUEFIED NATURAL GAS (LNG) STORAGE

LNG storage	Emission factor (scf/hour/component)
Leaker Emission Factors—LNG Storage Components, LNG Service	
Valve	1.19
Pump Seal	4.00
Connector	0.34
Other [1]	1.77
Leaker Emission Factors—LNG Storage Components, Gas Service	
Valve [2]	14.84
Connector	5.59
Flange	5.59
Open-Ended Line	17.27
Pressure Relief Valve	39.66
Meter and Instrument	19.33
Other [3]	4.1
Population Emission Factors—LNG Storage Compressor, Gas Service	
Vapor Recovery Compressor [4]	4.17

[1] ''Other'' equipment type for components in LNG service should be applied for any equipment type other than connectors, pumps, or valves.
[2] Valves include control valves, block valves and regulator valves.
[3] ''Other'' equipment type for components in gas service should be applied for any equipment type other than valves, connectors, flanges, open-ended lines, pressure relief valves, and meters and instruments, except that it does not include compressor emission points that are subject to § 98.233(o) or (p).
[4] Emission Factor is in units of ''scf/hour/device.''

■ 11. Revise Table W–6 of subpart W of part 98 to read as follows:

TABLE W–6 TO SUBPART W OF PART 98—DEFAULT METHANE EMISSION FACTORS FOR LNG IMPORT AND EXPORT EQUIPMENT

LNG import and export equipment	Emission factor (scf/hour/component)
Leaker Emission Factors—LNG Terminals Components, LNG Service	
Valve	1.19
Pump Seal	4.00

TABLE W–6 TO SUBPART W OF PART 98—DEFAULT METHANE EMISSION FACTORS FOR LNG IMPORT AND EXPORT EQUIPMENT—Continued

LNG import and export equipment	Emission factor (scf/hour/component)
Connector	0.34
Other [1]	1.77
Leaker Emission Factors—LNG Terminals Components, Gas Service	
Valve [2]	14.84
Connector	5.59
Flange	5.59
Open-Ended Line	17.27
Pressure Relief Valve	39.66
Meter and Instrument	19.33
Other [3]	4.1
Population Emission Factors—LNG Terminals Compressor, Gas Service	
Vapor Recovery Compressor [4]	4.17

[1] "Other" equipment type for components in LNG service should be applied for any equipment type other than connectors, pumps, or valves.
[2] Valves include control valves, block valves and regulator valves.
[3] "Other" equipment type for components in gas service should be applied for any equipment type other than valves, connectors, flanges, open-ended lines, pressure relief valves, and meters and instruments, except that it does not include compressor emission points that are subject to § 98.233(o) or (p).
[4] Emission Factor is in units of "scf/hour/compressor."

* * * * *

[FR Doc. 2016–01669 Filed 1–28–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R06–RCRA–2015–0661; FRL–9940–26–Region 6]

Arkansas: Final Authorization of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: During a review of Arkansas' regulations, the Environmental Protection Agency (EPA) identified a variety of State-initiated changes to Arkansas' hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended, for which the State had not previously sought authorization. EPA proposes to authorize the State for the program changes. In addition, EPA proposes to codify in the regulations entitled ''Approved State Hazardous Waste Management Programs'', Arkansas' authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that EPA will enforce under RCRA.

DATES: Send written comments by February 29, 2016.

ADDRESSES: Submit any comments identified by Docket ID No. EPA–R06–RCRA–2015–0661 by one of the following methods:

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

2. *Email: patterson.alima@epa.gov.*

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

4. *Hand Delivery or Courier.* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or email. Direct your comment to Docket No. EPA–R06–RCRA–2015–0661. The Federal regulations.gov Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. You can view and copy Arkansas' application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following location: EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson at (214) 665–8533 or Julia Banks at (214) 665–8178, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533) and Email address

patterson.alima@epa.gov and *bank.julia@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by direct final rule. EPA did not make a proposal prior to the direct final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the direct final rule. Unless we get written comments which oppose this authorization during the comment period, the direct final rule will become effective 60 days after publication and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

The purpose of this **Federal Register** document is to codify Arkansas' base hazardous waste management program and its revisions to that program through RCRA Cluster XXI (see 79 FR 64678 October 31, 2014). The EPA provided notices and opportunity for comments on the Agency's decisions to authorize the Arkansas program, and the EPA is not now reopening the decisions, nor requesting comments, on the Arkansas authorizations as published in FR notices specified in Section I.F of the direct final rule FR document.

This document incorporates by reference Arkansas' hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and federally enforceable program. By codifying Arkansas' authorized program and by amending the Code of Federal Regulations, the public will be more easily able to discern the status of federally approved requirements of the Arkansas hazardous waste management program.

Dated: November 16, 2015.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2016–01658 Filed 1–28–16; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–51 and 301–70

[FTR Case 2015–303; Docket 2016–0005, Sequence 1]

RIN 3090–AJ68

Federal Travel Regulation; Optimal Use of the Government Contractor-Issued Travel Charge Card

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: GSA is proposing to amend the Federal Travel Regulation (FTR) by updating the exemptions for mandatory use of the Government contractor-issued travel charge card to ensure the card is used as often as practicable.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before March 29, 2016 to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by FTR Case 2015–303 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FTR Case 2015–303.'' Select the link ''Comment Now'' that corresponds with ''FTR Case 2015–303'' and follow the instructions provided at the screen. Please include your name, company name (if any), and ''FTR Case 2015–303'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), Attn. Ms. Flowers, 1800 F Street NW., Washington, DC 20405.

Instructions: Please submit comments only and cite FTR Case 2015–303, in all correspondence related to this case. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Cy Greenidge, Program Analyst, Office of Government-wide Policy, at 202–219–2349. Contact the Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405, 202–501–4755, for information pertaining to status or publication schedules. Please cite FTR Case 2015–303.

SUPPLEMENTARY INFORMATION:

A. Background

The FTR currently lists official travel expenses and classes of employees that are exempt from the mandatory use of the Government contractor-issued travel charge card. See FTR sections 301–51.2 and 301–70.704. GSA has determined that these exemptions should be updated in order for agencies to maximize travel charge card rebates. This proposed rule emphasizes the need for agencies to maximize travel charge card rebates by increasing the use of the travel charge card. Additionally, this proposed rule updates the list of exemptions to the mandatory use of the Government contractor-issued travel charge card, with the goal being to increase the issuance and appropriate use of travel charge cards for employees on official travel.

B. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

C. Regulatory Flexibility Act

This proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This proposed rule is also exempt from the Administrative Procedure Act pursuant to 5 U.S.C. 553(a)(2) because it applies to agency management or personnel.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This proposed rule is also exempt from Congressional review prescribed under 5 U.S.C. 801. This proposed rule is not a major rule under 5 U.S.C. 804.

List of Subjects in 41 CFR Parts 301–51 and 301–70

Administrative practices and procedures, Government employees, Travel and transportation expenses.

Dated: January 15, 2016.

Troy Cribb,

Associate Administrator (M), Office of Government-wide Policy.

For the reasons set forth in the preamble, pursuant to 5 U.S.C. 5701–5711, GSA proposes to amend 41 CFR parts—301–51 and 301–70 as set forth below:

PART 301–51—PAYING TRAVEL EXPENSES

■ 1. The authority citation for 41 CFR part 301–51 continues to read as follows:

Authority: 5 U.S.C. 5707. *Subpart A* is issued under the authority of Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701 note); 40 U.S.C. 121(c).

■ 2. Revise § 301–51.2 to read as follows:

§ 301–51.2 Are there any official travel expenses that are exempt from the mandatory use of the Government contractor-issued travel charge card?

Expenses for which payment through a travel charge card is impractical *(e.g., vendor does not accept credit cards)* or imposes unreasonable burdens or costs are exempt from use of the travel card *(e.g. fees are charged for using the card).* Your agency may also authorize exemption of an official travel expense when it is in the interest of the Government to do so (see § 301–51.4).

§§ 301–51.3 through 301–51.8 [Redesignated as §§ 301–51.4 through 301–51.9]

■ 3. Redesignate §§ 301–51.3 through 301–51.8 as §§ 301–51.4 through 301–51.9, respectively.

■ 4. Add a new § 301–51.3 to read as follows:

§ 301–51.3 What classes of employees are exempt from mandatory use of the Government contractor-issued travel charge card?

The Administrator of General Services exempts the following classes of employees from mandatory use of the Government contractor-issued travel charge card:

(a) Any employee who has an application pending for the Government contractor-issued travel charge card;

(b) Any employee, when issuance of the Government contractor-issued travel charge card would adversely affect the mission or put the employee at risk; and

(c) Any employee who is not eligible to receive a Government contractor-issued travel charge card.

§ 301–51.6 [Amended]

■ 5. In the newly designated § 301–51.6, after paragraph (c), remove the words, ''Note to § 301–51.5'' and add the words ''Note to § 301–51.6'' in its place.

PART 301–70—INTERNAL POLICY AND PROCEDURE REQUIREMENTS

■ 6. The authority citation for 41 CFR part 301–70 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c); Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701, note), OMB Circular No. A–126, revised May 22, 1992, and OMB Circular No. A–123, Appendix B, revised January 15, 2009.

■ 7. Amend § 301–70.700 by—

■ a. Removing from paragraph (b) the word ''or'';

■ b. Removing from paragraph (c) the period after the word ''exemption'' and adding ''; or'' in its place; and

■ c. Adding paragraph (d) to read as follows:

§ 301–70.700 Must our employees use a Government contractor-issued travel charge card for official travel expenses?

* * * * *

(d) It is not in the interest of the Government to do so, or when payment through a travel charge card is impractical or imposes unreasonable burdens or costs on Federal employees.

■ 8. Amend § 301–70.701 by revising paragraph (b) to read as follows:

§ 301–70.701 Who has the authority to grant exemptions to mandatory use of Government contractor-issued travel charge card for official travel?

* * * * *

(b) The head of a Federal agency or his/her designee(s) may exempt any payment, person, type or class of payments, or type or class of agency personnel when use of the travel charge card is impracticable or imposes unreasonable burdens or costs.

(1) Agencies must manage their travel charge card programs to alleviate risks associated with issuing a travel charge card, where appropriate. If an employee is deemed eligible for a Government contractor-issued travel charge card and is expected to travel, the card must be issued and activated within 60 days of the travel charge card eligibility date, as determined by the agency.

(2) Agencies should include information in their travel charge cardholder training to inform travelers of the statutory requirement to use the travel charge card and the benefits to the agency, as well as to the traveler, of its use. Such agency benefits include earning rebates that can be reinvested in mission delivery, as well as being able to readily identify the locations to which employees are traveling, which can be used to help determine the budgetary impact of lodging per diem rates. Some examples of benefits to the traveler are no interest charges, longer payment terms, no reliance on personal funds/personal credit cards, and the convenience of direct/split disbursement payment.

§ 301–70.702 [Amended]

■ 9. Amend § 301–70.702 by removing ''MTT'' and adding ''MAE'' in its place.

■ 10. Revise § 301–70.704 to read as follows:

§ 301–70.704 What classes of employees are exempt from mandatory use of the Government contractor-issued travel charge card?

The Administrator of General Services exempts the following classes of employees from mandatory use of the Government contractor-issued travel charge card:

(a) Any employee who has an application pending for the Government contractor-issued travel charge card;

(b) Any employee, when issuance of the Government contractor-issued travel charge card would adversely affect the mission or put the employee at risk; and

(c) Any employee who is not eligible to receive a Government contractor-issued travel charge card.

[FR Doc. 2016–01302 Filed 1–28–16; 8:45 am]

BILLING CODE 6820–14–P

Notices

Federal Register
Vol. 81, No. 19
Friday, January 29, 2016

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.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from People Who are Blind or Severely Disabled.

ACTION: Proposed additions to the procurement list.

SUMMARY: The Committee is proposing to add services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments Must Be Received on or Before:* 2/28/2016.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to provide the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Services

Service Type: Base Supply Center Service
Mandatory for: U.S. Army, P.O. Box 35510, Fort Wainwright, AK
Mandatory Source(s) of Supply: RLCB, Inc., Raleigh, NC
Contracting Activity: Dept of the Army, 0413 AQ HQ, HQ PARC, Fort Wainwright, AK

Service Type: Temporary Administrative and Professional Support For Individuals with Disabilities Service
Mandatory for: Executive Office of the President, Washington, DC
Mandatory Source(s) of Supply: Columbia Lighthouse for the Blind, Washington, DC
Contracting Activity: Executive Office of the President, Office of Administration, Office of the Chief Financial Officer, Procurement Division, Washington, DC

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2016–01704 Filed 1–28–16; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes products from the Procurement List that were previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* February 28, 2016.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On 12/18/2015 (80 FR 79031–79032), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. §§ 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. §§ 8501–8506) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

Product Name(s)—NSN(s): Hood, Spray Painters Protective—4240–LL–L08–5010
Mandatory Source(s) of Supply: Goodwill Contract Services of Hawaii, Inc., Honolulu, HI
Contracting Activity: Dept of the Navy, Pearl Harbor Naval Shipyard IMF, Pearl Harbor, HI

Product Name(s)—NSN(s): Paper, Mimeograph and Duplicating—7530–00–285–3060 Paper, Bond & Writing—7530–00–160–9165, 7530–00–515–1086
Mandatory Source(s) of Supply: Louisiana Association for the Blind, Shreveport, LA
Contracting Activity: General Services Administration, New York, NY

Product Name(s)—NSN(s): Pen, Ball Point, Retractable, BIO–WRITE, Ergonomic, Cushion Grip, 7520–01–424–4854—Blue Ink, Medium Point, 7520–01–424–4856—Black Ink, Fine Point, 7520–01–424–4873—Blue Ink, Fine Point, 7520–01–424–4876—Black Ink, Medium Point
Mandatory Source(s) of Supply: Industries for the Blind, Inc., West Allis, WI, Industries of the Blind, Inc., Greensboro, NC
Contracting Activity: General Services Administration, New York, NY

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2016–01705 Filed 1–28–16; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0038]

Agency Information Collection Activities; Proposed Collection; Comment Request; Third Party Testing of Children's Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (''PRA'') of 1995 (44 U.S.C. chapter 35), the Consumer Product Safety Commission (''Commission'' or ''CPSC'') announces that the Commission has submitted to the Office of Management and Budget (''OMB'') a request for extension of approval of a collection of information for Third Party Testing of Children's Products, approved previously under OMB Control No. 3041–0159. In the **Federal Register** of November 16, 2015 (80 FR 70762), the CPSC published a notice to announce the agency's intention to seek extension of approval of the collection of information. The Commission received one comment, which is addressed in this notice. By publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information, without change.

DATES: Submit written or electronic comments on the collection of information by February 29, 2016.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at: *http://www.regulations.gov,* under Docket No. CPSC–2010–0038.

FOR FURTHER INFORMATION CONTACT: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

Comment on the Proposed Extension: CPSC received one comment from the government of India that raised several issues on the proposed extension of approval of the collection of information related to moving the marking and labeling burden requirements for section 104 rules into the collection of information for Third Party Testing of Children's Products. A summary of the issues raised and our responses appear below. For the reasons discussed below, CPSC has not made any amendments to the proposed renewal as a result of the comment.

Issue 1: The commenter stated that the ''proposed rule'' would require ''manufacturers of children's products . . . to follow all the paperwork requirements associated with the section 104 rules.'' The commenter objected to the proposed paperwork requirements, stating that the requirements would ''significantly increase the burden on the manufacturers and importers of children's products.'' The commenter described the types of increased burden anticipated, and asked the CPSC ''whether there was any injury or risk attached or reported from the listed products which lead to the proposed regulation.''

Response 1: The commenter appears to misunderstand the intent of CPSC's **Federal Register** notice. CPSC did not issue a proposed rule that would change the paperwork requirements for children's products generally, or for rules on durable infant and toddler products issued pursuant to section 104 of the Consumer Product Safety Improvement Act of 2008 (''CPSIA'') (''section 104 rules''). Rather, CPSC's notice was intended to make stakeholders aware that CPSC is seeking approval from OMB of a renewal of an existing collection of information, which is a process required by the PRA. For information collection renewals, the PRA requires agencies to estimate the burden to stakeholders and the burden to the U.S. government to meet existing paperwork requirements. Addressing the renewal of an existing collection of information, CPSC's notice does not require any manufacturer or importer to increase, alter, amend, or decrease a paperwork burden associated with any rule issued by the CPSC, including section 104 rules.

CPSC's **Federal Register** notice fulfilled CPSC's obligation under the PRA to notify the public about the estimated burden calculation for the information collection for Third Party Testing of Children's Products and to seek approval of the renewal from OMB. To increase CPSC's administrative efficiency, CPSC proposed to consolidate the existing paperwork burden estimate for 14 rules that were created pursuant to section 104 into one OMB control number for Third Party Testing of Children's Products. The marking and labeling requirements for each of the 14 section 104 rules, set forth in Table 1, were established in separate prior rulemaking proceedings, which were all subject to notice and comment rulemaking. Moving the estimated burden for meeting marking and labeling requirements for these 14 section 104 rules does not change the existing paperwork burden for manufacturers and importers. If OMB approves the renewal of the collection of information for Third Party Testing of Children's Products, including existing paperwork requirements for marking and labeling of products subject to a section 104 rule, CPSC will account for the burden of testing and labeling of children's products under one OMB control number, 3041–0159, instead of using the 15 separate OMB control numbers in use today. To avoid confusion, and as shown in Table 1, CPSC will discontinue use of the 14 OMB control numbers currently in use for section 104 rules.

Issue 2: The commenter highlighted Article 5.1.2 of the World Trade Organization Agreement on Technical Barriers to Trade regarding unnecessary obstacles to international trade. Article 5.1.2 states:

> conformity assessment procedures are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. This means, *inter alia,* that conformity assessment procedures shall not be more strict or be applied more strictly than is necessary to give the importing Member adequate confidence that products conform with the applicable technical regulations or standards, taking account of the risks non-conformity would create.

Response 2: After reviewing Article 5.1.2, CPSC does not believe that the Article is applicable to the CPSC's proposed renewal of the collection of information for Third Party Testing of Children's Products or the proposed reallocation of the paperwork burden for section 104 rules. CPSC's notice does not alter or amend any existing technical regulation or paperwork requirement for children's products. Rather, for administrative purposes, CPSC is consolidating existing collections of information.

Issue 3: The commenter stated that the ''quality, utility and clarity'' of the products could be derived from general marking procedures provided for ''in the infant products,'' and the commenter asked about the necessity of adding marking and labeling requirements for section 104 rules, and also inquired about how the proposed requirement would be implemented.

Response 3: CPSC will not implement changes to marking and labeling requirements faced by industry because CPSC is not changing or adding any marking or labeling requirements for children's products or for section 104 rules. The marking and labeling requirements for each of the 14 section 104 rules were established in separate prior rulemaking proceedings, which were all subject to notice and comment rulemaking.

Issue 4: The commenter stated that implementation of the proposed requirement ''may lead to unnecessary delay and escalate the cost'' for export of children's products to the United States. The commenter stated that because the ''proposed regulation'' could create ''a huge cost for Indian exports of children's products, India may like to seek bilateral consultation with USA to sort out the issue.''

Response 4: Discontinuing use of 14 existing OMB control numbers for section 104 rules and moving the burden allocation into one OMB control number for Third Party Testing of Children's Products will not create any new requirements for manufacturers or importers, and therefore, will not cause delay or increased costs. Going forward, CPSC's use of a single OMB control number should reduce burden and costs for CPSC to meet PRA renewal requirements, which must be updated every 3 years.

Description of the Collection: CPSC has submitted the following currently approved collection of information to OMB for extension:

Title: Third Party Testing of Children's Products

OMB Number: 3041–0159

Type of Review: Renewal of collection for third party testing of children's products and inclusion of the previously approved burden for marking and labeling of durable infant and toddler products into this collection of information.

General Description of Collection

Testing and Certification: On November 8, 2011, the Commission issued two rules for implementing third party testing and certification of children's products, as required by section 14 of the Consumer Product Safety Act (''CPSA''):

- *Testing and Labeling Pertaining to Product Certification* (76 FR 69482, codified at 16 CFR part 1107; ''the testing rule''); and
- *Conditions and Requirements for Relying on Component Part Testing or Certification, or Another Party's Finished Product Testing or Certification to Meet Testing and Certification Requirements* (76 FR 69547, codified at 16 CFR part 1109; ''the component part rule'').

The testing rule establishes requirements for manufacturers to conduct initial third party testing and certification of children's products, testing when there has been a material change in the product, continuing testing (periodic testing), and guarding against undue influence. A final rule on *Representative Samples for Periodic Testing of Children's Products* (77 FR 72205, Dec. 5, 2012) amended the testing rule to require that representative samples be selected for periodic testing of children's products.

The component part rule is a companion to the testing rule that is intended to reduce third party testing burdens by providing all parties involved in the required testing and certifying of children's products the flexibility to conduct or rely upon testing where it is the easiest and least expensive. Certification of a children's product can be based upon one or more of the following: (a) Component part testing; (b) component part certification; (c) another party's finished product testing; or (d) another party's finished product certification.

Records required by the testing rule and the rule on selecting representative samples appear in 16 CFR 1107.26. Required records include a certificate, and records documenting third party testing and related sampling plans. These requirements largely overlap the recordkeeping requirements in the component part rule, codified at 16 CFR 1109.5(g). Duplicate recordkeeping is not required; records need to be created and maintained only once to meet the applicable recordkeeping requirements. The component part rule also requires records that enable tracing a product or component back to the entity that had a product tested for compliance, and also requires attestations of due care to ensure test result integrity.

Section 104 Rules: The Commission has issued 14 section 104 rules. Section 104 rules issued to date appear in Table 1. Each section 104 rule contains requirements for marking, labeling, and instructional literature:

- Each product and the shipping container must have a permanent label or marking that identifies the name and address (city, state, and zip code) of the manufacturer, distributor, or seller.
- A permanent code mark or other product identification shall be provided on the infant carrier and its package or shipping container, if multiple packaging is used. The code will identify the date (month and year) of manufacture and permit future identification of any given model.

Each standard also requires products to include easy-to-read and understand instructions regarding assembly, maintenance, cleaning, use, and adjustments, where applicable.

OMB has assigned control numbers for the estimated burden to comply with marking and labeling requirements in each section 104 rule. With this renewal, CPSC is moving the marking and labeling burden requirements for section 104 rules into the collection of information for Third Party Testing of Children's Products. The paperwork burdens associated with the section 104 rules are appropriately included in the collection for Third Party Testing of Children's Products because all of the section 104 products are also required to be third party tested. Having all of the burden hours under one collection for children's products provides one OMB control number and eases the administrative burden of renewing multiple collections. CPSC will discontinue using the OMB control numbers currently assigned to individual section 104 rules. The discontinued OMB control numbers are listed in Table 1.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of children's products subject to a children's product safety rule.

Estimated Number of Respondents:

Testing and Certification: CPSC reviewed every category in the NAICS and selected categories that included firms that could manufacture or sell any consumer product that could be covered by a consumer product safety rule. Using data from the U.S. Census Bureau, we determined that there were approximately 34,000 manufacturers, about 77,000 wholesalers, and about 133,000 retailers in these categories. However, these categories also include many non-children's products, which are not covered by any children's product safety rules. Therefore, these numbers would constitute an overestimate of the number of firms that are subject to the recordkeeping requirements.

Section 104 Rules: Table 1 summarizes the durable infant and toddler products subject to the marking and labeling requirements being moved into OMB control number 3041–0159.

TABLE 1—ESTIMATED BURDEN FOR MARKING AND LABELING IN SECTION 104 RULES

Discontinued OMB Control No.	16 CFR Part	Description	Mfrs.	Models	Total respondent hours
3041–0145	1215	Safety Standard for Infant Bath Seats	7	2	14
3041–0141	1216	Safety Standard for Infant Walkers	16	4	64
3041–0150	1217	Safety Standard for Toddler Beds	78	10	780
3041–0157	1218	Safety Standard for Bassinets and Cradles	62	5	310
3041–0147	1219	Safety Standard for Full-Size Cribs	78	11	858
3041–0147	1220	Safety Standard for Non-Full-Size Cribs	24	4	96
3041–0152	1221	Safety Standard for Play Yards	31	4	124
3041–0160	1222	Safety Standard for Infant Bedside Sleepers	5	2	10
3041–0155	1223	Safety Standard for Swings	10	11	110
3041–0149	1224	Safety Standard for Portable Bedrails	17	2	34
3041–0158	1225	Safety Standard for Hand-Held Infant Carriers	71	2	142
3041–0162	1226	Safety Standard for Soft Infant and Toddler Carriers.	54	2	108
3041–0164	1227	Safety Standard for Carriages and Strollers	85	8	680
3041–0166	1230	Safety Standard for Frame Child Carriers (not effective until 9/2016).	16	3	48
Total burden hours					3,378

Estimated Time per Response:

Testing and Certification: Based on comments received during rulemaking for the testing rule, we estimate recordkeeping for approximately 300,000 non-apparel children's products per year, with an average of 5 hours of recordkeeping burden associated with each product. We also estimate recordkeeping for approximately 1.3 million children's apparel and footwear products per year, with an average of 3 hours of recordkeeping burden associated with each product. Manufacturers that are required to conduct periodic testing have an additional recordkeeping burden estimated at 4 hours per representative sampling plan.

Section 104 Rules: Each section 104 rule contains a similar analysis for marking and labeling that estimates the time to make any necessary changes to marking and labeling requirements at one hour per model.

Total Estimated Annual Burden:

Testing and Certification: The total estimated annual burden for recordkeeping associated with the testing rule is 5.4 million hours (300,000 non-apparel children's products × 5 hours per non-apparel children's product + 1,300,000 children's apparel products × 3 hours per children's apparel product = 1.5 million hours + 3.9 million hours, or a total of 5.4 million hours).

Representative Sampling Plans for Periodic Testing: We estimate that if each product line averages 50 individual models or styles, then a total of 32,000 individual representative sampling plans (1.6 million children's products ÷ 50 models or styles) would need to be developed and documented. This would require 128,000 hours (32,000 plans × 4 hours per plan). If each product line averages 10 individual models or styles, then a total of 160,000 different representative sampling plans (1.6 million children's products ÷ 10 models or styles) would need to be documented. This would require 640,000 hours (160,000 plans × 4 hours per plan). Accordingly, the requirement to document the basis for selecting representative samples could increase the estimated annual burden by up to 640,000 hours.

Component Part Testing: The component part rule shifts some testing costs and some recordkeeping costs to component part and finished product suppliers because some testing will be performed by these parties rather than by the finished product certifiers (manufacturers and importers). Even if a finished product certifier can rely entirely on component part and finished product suppliers for all required testing, however, the finished product supplier will still have some recordkeeping burden to create and maintain a finished product certificate. Therefore, although the component part testing rule may reduce the total cost of the testing required by the testing and certification rule, the rule increases the estimated annual recordkeeping burden for those who choose to use component part testing.

Because we do not know how many companies participate in component part testing and supply test reports or certifications to other certifiers in the supply chain, we have no concrete data to estimate the recordkeeping and third party disclosure requirements in the component part rule. Likewise, no clear method exists for estimating the number of finished product certifiers who conduct their own component part testing. In the component part rulemaking, we suggested that the recordkeeping burden for the component part testing rule could amount to 10 percent of the burden estimated for the testing and labeling rule. 76 FR 69546, 69579 (Nov. 8, 2011). Currently, we have no basis to change this estimate.

In addition to recordkeeping, the component part rule requires third party disclosure of test reports and certificates, if any, to a certifier who intends to rely on such documents to issue its own certificate. Without data, allocation of burden estimation between the recordkeeping and third party disclosure requirements is difficult. However, based on our previous analysis, we continue to estimate that creating and maintaining records accounts for approximately 90 percent of the burden, while the third party disclosure burden is much less, perhaps approximately 10 percent. Therefore, if we continue to use the estimate that component part testing will amount to about 10 percent of the burden estimated for the testing rule, then the hour burden of the component part rule is estimated to be about 540,000 hours total annually (10% of 5.4 million hours); allocating 486,000 hours for recordkeeping and 54,000 hours for third party disclosure.

Section 104 Rules: The burden for marking and labeling for each section 104 rule is provided in Table 1. The estimated total number of respondent hours is 3,378.

Dated: January 26, 2016.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2016–01699 Filed 1–28–16; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2012–HA–0160]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 29, 2016.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Health Agency Uniform Business Office, Defense Health Headquarters, 7700 Arlington Blvd., Falls Church, Virginia 22042, ATTN: DeLisa E. Prater, Program Manager, 703–681–3492. ext. 6757 (DSN 761).

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Third Party Collection Program/Medical Services Account/Other Health Insurance; DD Form 2569; OMB Control Number 0720–0055.

Needs and Uses: The information collection requirement is necessary to obtain health insurance policy information used for coordination of health care benefits and billing third party payers and other federal agencies for health care provided to their beneficiaries and also to civilian non-Uniformed Service beneficiaries for health care provided to them. DoD implemented the Third Party Collection Program (TPCP) in FY87 based on the authority granted in 10 U.S.C. 1095 and implemented by 32 CFR 220 in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) (Pub. L. 99–272, section 2001, April 7, 1986). Under the TPCP, DoD is authorized to collect from third-party payers the cost of inpatient and outpatient services rendered to DoD beneficiaries who have other health insurance. Military treatment facilities (MTFs) are required to make this form available to third-party payers upon request. A third-party payer may not request any other assignment of benefits form from the subscriber. Also, for civilian non-Uniformed Services beneficiary and interagency patients, DD Form 2569 is necessary and serves as an assignment of benefits, approval to submit claims to payers on behalf of the patient and authorization to release medical information.

Affected Public: Individuals or households.

Annual Burden Hours: 260,000.

Number of Respondents: 3,900,000.

Responses per Respondent: 1.

Annual Responses: 3,900,000.

Average Burden per Response: 4 minutes.

Frequency: Annually, on occasion.

The administration has placed an increased emphasis upon recovery of health care expenses under the TPCP, as authorized by 10 U.S.C. 1095 and 1097b, and also from civilians and other federal agencies as authorized by 10 U.S.C. 1079b and 1085. Completion of this form, while increasing total burden hours, will aid in increasing revenue to improve services, operating efficiency and effectiveness within the Military Health System. Funds collected return directly to the operation and maintenance budget of the MTF where the care was delivered and are used to improve the quality of healthcare. Often the funds allow the continuation of programs or purchasing of equipment at the facilities for which there would otherwise not be funding. This information is collected either during the admission and/or discharge process for an inpatient stay or during the registration process for an outpatient visit or as soon as practical thereafter.

Dated: January 26, 2016.

Morgan E. Park,

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

[FR Doc. 2016–01702 Filed 1–28–16; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9025–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www2.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EISs), Filed 01/18/2016 Through 01/22/2016, Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search.*

EIS No. 20160016, Final, FHWA, TX, SH 249 Extension, Contact: Carlos Swonke 512–416–2734, Under MAP–21 Section 1319 FHWA has issued a single FEIS and ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20160017, Draft, USFS, AK, Shoreline II Oufitter/Guide (formerly

Shoreline II, Outfitter and Guide Management Plan), Comment Period Ends:, 03/14/2016, Contact: Carey Case 907–772–3871.

EIS No. 20160018, Draft, NPS, MD, Assateague Island National Seashore General Management Plan, Comment Period Ends: 05/01/2016, Contact: Deborah Darden 410–629–6080.

EIS No. 20160019, Final, USFS, OR, Kahler Dry Forest Restoration, Review Period Ends: 03/14/2016, Contact: John Evans 541–278–3869.

EIS No. 20160020, Draft, USFS, CA, Lassen National Forest Over-Snow Vehicle (OSV) Use Designation, Comment Period Ends: 03/15/2016, Contact: Chris Obrien 530–252–6698.

EIS No. 20160021, Draft, USACE, NY, Mamaroneck and Sheldrake Rivers Flood Risk Management Village of Mamaroneck General Reevaluation, Comment Period Ends: 03/14/2016, Contact: Matthew Voisine 917–790–8718.

Amended Notices

EIS No. 20150312, Draft, FRA, NY, NEC FUTURE Tier 1, Comment Period Ends: 02/16/2016, Contact: Rebecca Reyes-Alicea 212–668–2282, Revision to FR Notice Published 11/13/2015; Extending Comment Period from 01/30/2016 to 02/16/2016.

EIS No. 20150353, Draft, FRA, MD, Baltimore and Potomac Tunnel Project, Comment Period Ends: 02/19/2016, Contact: Michelle W. Fishburne 202–293–0398, Revision to FR Notice Published 12/18/20105; Extending Comment Period from 02/05/2016 to 02/19/2016.

EIS No. 20150358, Draft, USACE, FL, Herbert Hoover Dike Dam Safety Modification, Comment Period Ends: 02/23/2016, Contact: Stacie Auvenshine 904–232–3694, Revision to FR Notice Published 12/24/2015; Correction to Comment Period from 02/08/2016 to 02/23/2016.

EIS No. 20160001, Final, FHWA, CO, I–70 East, Review Period Ends: 03/02/2016, Contact: Chris Horn 720–963–3017, Revision to FR Notice Published 01/15/2016; Extending Comment Period from 02/16/2016 to 03/02/2016.

EIS No. 20160008, Draft, USFS, WY, Withdrawn—Bear Lodge Project, Contact: Jeanette Timm 307–283–1361, Revision to FR Notice Published 01/15/2016; The U.S. Department of Agriculture's Forest Service has Officially Withdrawn this EIS.

Dated: January 26, 2016.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2016–01706 Filed 1–28–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–153]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by March 29, 2016.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–R–153 Medicaid Drug Use Review (DUR) Program

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicaid Drug Use Review (DUR) Program; *Use:* States must provide for a review of drug therapy before each prescription is filled

or delivered to a Medicaid patient. This review includes screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse. Pharmacists must make a reasonable effort to obtain, record, and maintain Medicaid patient profiles. These profiles must reflect at least the patient's name, address, telephone number, date of birth/age, gender, history, *e.g.,* allergies, drug reactions, list of medications, and pharmacist's comments relevant to the individual's drug therapy.

The State must conduct RetroDUR which provides for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, inappropriate or medically unnecessary care. Patterns or trends of drug therapy problems are identified and reviewed to determine the need for intervention activity with pharmacists and/or physicians. States may conduct interventions via telephone, correspondence, or face-to-face contact.

Annual reports are submitted to CMS for the purposes of monitoring compliance and evaluating the progress of States' DUR programs. The information submitted by States is reviewed and results are compiled by CMS in a format intended to provide information, comparisons and trends related to States' experiences with DUR. The States benefit from the information and may enhance their programs each year based on State reported innovative practices that are compiled by CMS from the DUR annual reports. *Form Number:* CMS–R–153 (OMB Control Number 0938–0659); *Frequency:* Yearly, quarterly, and occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 510; *Total Annual Hours:* 20,808. (For policy questions regarding this collection contact Renee Hilliard at 410–786–2991).

Dated: January 25, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–01688 Filed 1–28–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10519]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by February 29, 2016.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR,* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Physician Quality Reporting System (PQRS) and the Electronic Prescribing Incentive (eRx) Program Data Assessment, Accuracy and Improper Payments Identification Support; *Use:* The incentive and reporting programs have data integrity issues, such as rejected and improper payments. This four year project will evaluate incentive payment information for accuracy and identify improper payments, with the goal of recovering these payments. Additionally, based on the project's results, recommendations will be made so that we can avoid future data integrity issues.

Data submission, processing, and reporting will be analyzed for potential errors, inconsistencies, and gaps that are related to data handling, program requirements, and clinical quality measure specifications of PQRS and eRx program. Surveys of Group Practices, Registries, and Data Submission Vendors (DSVs) will be conducted in order to evaluate the PQRS and eRx Incentive Program. Follow-up interviews will occur with a small number of respondents. *Form Number:* CMS–10519 (OMB control number: 0938–1255); *Frequency:* Annually; *Affected Public:* Business or other for-profits; *Number of Respondents:* 115;

Total Annual Responses: 115 *Total Annual Hours:* 173. (For policy questions regarding this collection contact Timothy Jackson at 410–786–4006.)

Dated: January 25, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–01689 Filed 1–28–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; ADNI–3.

Date: February 24, 2016.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892.

Contact Person: Alexander Parsadanian, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *parsadaniana@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 25, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–01697 Filed 1–28–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Omnibus SEP–8.

Date: March 11, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel and Conference Center, 5701 Marinelli Road, Room Brookside A&B, North Bethesda, MD 20852.

Contact Person: Jennifer C. Schiltz, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W634, Rockville, MD 20850, 240–276–5864, *jennifer.schiltz@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Omnibus SEP–11A.

Date: March 21, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W602 Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Delia Tang, MD, Scientific Review Officer, Research Programs, Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W602, Bethesda, MD 20892, 240–276–6456, *tangd@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 25, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–01696 Filed 1–28–16; 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; PAR14–008: Psychiatric Disease, Genetics and RDoC Framework.

Date: February 22, 2016.

Time: 1:30 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: Julius Cinque, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252, *cinquej@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroplasticity and Neurotransmitters Study Section.

Date: February 25–26, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Argonaut Hotel, 495 Jefferson Street, San Francisco, CA 94109.

Contact Person: Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Immunology.

Date: February 25–26, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alok Mulky, Ph.D., Scientific Review Officer, Center for Scientific Review (CSR), National Institutes of Health (NIH), 6701 Rockledge Dr., Room 4203, Bethesda, MD 20817, (301) 435–3566, *alok.mulky@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA Review: Immunology.

Date: February 26, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alok Mulky, Ph.D., Scientific Review Officer, Center for Scientific Review (CSR), National Institutes of Health (NIH), 6701 Rockledge Dr., Room 4203, Bethesda, MD 20817, (301) 435–3566, *alok.mulky@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: January 25, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–01693 Filed 1–28–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Member Conflict SEP.

Date: March 7, 2016.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W530, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Tushar Baran Deb, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W624, Rockville, MD 20850, 240–276–6132, *tushar.deb@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Provocative Question 5.

Date: March 16, 2016.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer institute Shady Grove, 9609 Medical Center Drive, Room 7W032, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Dona Love, Ph.D., Scientific Review Officer, Special Review Branch Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W236, Rockville, MD 20850, 240–276–5264, *donalove@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI R03 & R21 Omnibus SEP–9.

Date: March 17, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Denise L. Stredrick, Ph.D., Scientific Review Officer, Special Review Branch, Division Of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W640, Rockville, MD 20890, 240–276–5053, *stredrid@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 25, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–01695 Filed 1–28–16; 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; PAR Panel: Long-Term Outcomes of Medically Assisted Reproduction.

Date: February 24, 2016.

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, (Virtual Meeting).

Contact Person: Clara M. Cheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170 MSC 7892, Bethesda, MD 20817, 301–435–1041, *chengc@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Acute Neural Injury and Epilepsy Study Section.

Date: February 25–26, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Tuscan Hotel, 425 North Point Street, San Francisco, CA 94133.

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Aging Systems and Geriatrics Study Section.

Date: February 29–March 1, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.

Contact Person: Inese Z. Beitins, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, 301–435–1034, *beitinsi@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetics of Health and Disease Study Section.

Date: February 29–March 1, 2016.

Time: 10:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Cheryl M Corsaro, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@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: January 25, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–01694 Filed 1–28–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0104]

Agency Information Collection Activities: Petition for U Nonimmigrant Status, Form I–918, and Supplements A and B of Form I–918; Revision of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on September 10, 2014, at 79 FR 53721, allowing for a 60-day public comment period. USCIS did receive three comments in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 29, 2016. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at 202–395–5806 (this is not a toll-free number). All submissions received must include the agency name and the OMB Control Number 1615–0104.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha L. Deshommes, Acting Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number 202–272–8377 (this is not a toll-free number). Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283; TTY 800–767–1833.

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2010–0004 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition for U Nonimmigrant Status; and Supplements A and B.

(3) *Agency form number, if any, and the applicable component of DHS sponsoring the collection:* Form I–918; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This application permits victims of certain qualifying criminal activity and their immediate family members to apply for temporary nonimmigrant status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Form I–918–26,400 responses at 5 hours per response; Supplement A–17,808 at 1.5 hours per response; Supplement B–26,400 responses at 1 hour per response; as well as 44,408 biometric-related responses at 1.17 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 236, 835.36 annual burden hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* $165,780.

Dated: January 27, 2016.

Elizabeth Zemlan,

Acting Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2016–01763 Filed 1–28–16; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5907–N–05]

Federal Property Suitable as Facilities To Assist the Homeless

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

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 21, 2016.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

[FR Doc. 2016–01513 Filed 1–28–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/ A0A501010.999900]

Renewal of Agency Information Collection for Tribal Self-Governance Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is submitting to the Office of Management and Budget (OMB) a request for approval for the collection of information for Tribal Self-Governance Program authorized by OMB Control Number 1076–0143. This information collection expires January 31, 2016.

DATES: Interested persons are invited to submit comments on or before February 29, 2016.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to: Sharee M. Freeman, Director, Office of Self-Governance, 1951 Constitution Avenue NW., Mail Stop 355–G SIB, Washington, DC 20240; telephone: (202) 219–0240, email: *Sharee.Freeman@bia.gov.* Please be sure to include the applicable OMB Control Number in the subject of your comment.

FOR FURTHER INFORMATION CONTACT: Sharee Freeman, (202) 219–0240. You may review the information collection request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Office of Self-Governance is seeking renewal of the approval for information collection Tribal Self-Governance Program, as required by the Paperwork Reduction Act of 1995. The information collected will be used to establish requirements for entry into the pool of qualified applicants for Self-Governance and to meet reporting requirements of the Tribal Self-Governance Act.

II. Request for Comments

On October 27, 2015, BIA published a notice announcing the renewal of this information collection and provided a 60-day comment period in the **Federal Register** (80 FR 65796). There were no comments received in response to this notice.

The BIA requests your comments on this collection concerning: (1) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (3) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (4) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. 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.

III. Data

OMB Control Number: 1076–0143.

Title: Tribal Self-Governance program, 25 CFR part 1000.

Brief Description of Collection: The Self-Governance program is authorized by the Tribal Self-Governance Act of 1994, Public Law 103–413 (the Act), as amended. Indian Tribes interested in entering into Self-Governance must submit certain information as required by the Act. In addition, those Tribes and Tribal consortia that have entered into Self-Governance funding agreements will be requested to submit certain information as described in 25 CFR part 1000. This information will be used to justify a budget request submission on their behalf and to comport with section 405 of the Act that calls for the Secretary to submit an annual report to the Congress.

Type of Review: Extension without change of currently approved collection.

Respondents: Federally recognized Indian Tribes and Tribal consortia participating in or wishing to enter into Tribal Self-Governance.

Number of Respondents: 75.

Number of Responses: 84.

Frequency of Response: On occasion or annually.

Obligation to Respond: Responses are required to obtain or retain a benefit or are voluntary, depending upon the part of the program being addressed.

Estimated Time per Response: Completion times vary from 30 minutes to 400 hours, with an average of approximately 43 hours.

Estimated Total Annual Hour Burden: 4,443 hours.

Estimated Total Annual Non-Hour Dollar Cost: $10,500.

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2016–01700 Filed 1–28–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/ A0A501010.999900]

Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the current list of 566 Tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs (BIA) by virtue of their status as Indian Tribes. The list is updated from

the notice published on January 14, 2015.

FOR FURTHER INFORMATION CONTACT: Laurel Iron Cloud, Bureau of Indian Affairs, Division of Tribal Government Services, Mail Stop 4513–MIB, 1849 C Street NW., Washington, DC 20240. Telephone number: (202) 513–7641.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to Section 104 of the Act of November 2, 1994 (Pub. L. 103–454; 108 Stat. 4791, 4792), and in exercise of authority delegated to the Assistant Secretary—Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8.

Published below is a list of federally acknowledged Tribes in the contiguous 48 states and Alaska.

Amendments to the list include name changes and name corrections. To aid in identifying Tribal name changes and corrections, the Tribe's previously listed or former name is included in parentheses after the correct current Tribal name. We will continue to list the Tribe's former or previously listed name for several years before dropping the former or previously listed name from the list.

The listed Indian entities are acknowledged to have the immunities and privileges available to federally recognized Indian Tribes by virtue of their government-to-government relationship with the United States as well as the responsibilities, powers, limitations, and obligations of such Tribes. We have continued the practice of listing the Alaska Native entities separately solely for the purpose of facilitating identification of them and reference to them given the large number of complex Native names.

Dated: January 27, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

Indian Tribal Entities Within the Contiguous 48 States Recognized and Eligible To Receive Services From The United States Bureau of Indian Affairs

Absentee-Shawnee Tribe of Indians of Oklahoma
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California
Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona)
Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas)
Alabama-Quassarte Tribal Town
Alturas Indian Rancheria, California
Apache Tribe of Oklahoma
Arapaho Tribe of the Wind River Reservation, Wyoming
Aroostook Band of Micmacs (previously listed as the Aroostook Band of Micmac Indians)
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
Augustine Band of Cahuilla Indians, California (previously listed as the Augustine Band of Cahuilla Mission Indians of the Augustine Reservation)
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
Bay Mills Indian Community, Michigan
Bear River Band of the Rohnerville Rancheria, California
Berry Creek Rancheria of Maidu Indians of California
Big Lagoon Rancheria, California
Big Pine Paiute Tribe of the Owens Valley (previously listed as the Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California)
Big Sandy Rancheria of Western Mono Indians of California (previously listed as the Big Sandy Rancheria of Mono Indians of California)
Big Valley Band of Pomo Indians of the Big Valley Rancheria, California
Bishop Paiute Tribe (previously listed as the Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California)
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
Blue Lake Rancheria, California
Bridgeport Indian Colony (previously listed as the Bridgeport Paiute Indian Colony of California)
Buena Vista Rancheria of Me-Wuk Indians of California
Burns Paiute Tribe (previously listed as the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon)
Cabazon Band of Mission Indians, California
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California
Caddo Nation of Oklahoma
Cahto Tribe of the Laytonville Rancheria
Cahuilla Band of Indians (previously listed as the Cahuilla Band of Mission Indians of the Cahuilla Reservation, California)
California Valley Miwok Tribe, California
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California
Capitan Grande Band of Diegueno Mission Indians of California: (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California)
Catawba Indian Nation (aka Catawba Tribe of South Carolina)
Cayuga Nation
Cedarville Rancheria, California
Chemehuevi Indian Tribe of the Chemehuevi Reservation, California
Cher-Ae Heights Indian Community of the Trinidad Rancheria, California
Cherokee Nation
Cheyenne and Arapaho Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma)
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Chicken Ranch Rancheria of Me-Wuk Indians of California
Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana)
Chitimacha Tribe of Louisiana
Citizen Potawatomi Nation, Oklahoma
Cloverdale Rancheria of Pomo Indians of California
Cocopah Tribe of Arizona
Coeur D'Alene Tribe (previously listed as the Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho)
Cold Springs Rancheria of Mono Indians of California
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
Comanche Nation, Oklahoma
Confederated Salish and Kootenai Tribes of the Flathead Reservation
Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation)
Confederated Tribes of the Chehalis Reservation
Confederated Tribes of the Colville Reservation
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians
Confederated Tribes of the Goshute Reservation, Nevada and Utah
Confederated Tribes of the Grand Ronde Community of Oregon
Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon)
Confederated Tribes of the Warm Springs Reservation of Oregon
Coquille Indian Tribe (previously listed as the Coquille Tribe of Oregon)
Cortina Indian Rancheria (previously listed as the Cortina Indian Rancheria of Wintun Indians of California)
Coushatta Tribe of Louisiana
Cow Creek Band of Umpqua Tribe of Indians (previously listed as the Cow Creek Band of Umpqua Indians of Oregon)

Cowlitz Indian Tribe
Coyote Valley Band of Pomo Indians of California
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
Crow Tribe of Montana
Death Valley Timbi-sha Shoshone Tribe (previously listed as the Death Valley Timbi-Sha Shoshone Band of California)
Delaware Nation, Oklahoma
Delaware Tribe of Indians
Dry Creek Rancheria Band of Pomo Indians, California (previously listed as the Dry Creek Rancheria of Pomo Indians of California)
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
Eastern Band of Cherokee Indians
Eastern Shawnee Tribe of Oklahoma
Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California
Elk Valley Rancheria, California
Ely Shoshone Tribe of Nevada
Enterprise Rancheria of Maidu Indians of California
Ewiiaapaayp Band of Kumeyaay Indians, California
Federated Indians of Graton Rancheria, California
Flandreau Santee Sioux Tribe of South Dakota
Forest County Potawatomi Community, Wisconsin
Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
Fort Bidwell Indian Community of the Fort Bidwell Reservation of California
Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon
Fort McDowell Yavapai Nation, Arizona
Fort Mojave Indian Tribe of Arizona, California & Nevada
Fort Sill Apache Tribe of Oklahoma
Gila River Indian Community of the Gila River Indian Reservation, Arizona
Grand Traverse Band of Ottawa and Chippewa Indians, Michigan
Greenville Rancheria (previously listed as the Greenville Rancheria of Maidu Indians of California)
Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
Guidiville Rancheria of California
Habematolel Pomo of Upper Lake, California
Hannahville Indian Community, Michigan
Havasupai Tribe of the Havasupai Reservation, Arizona
Ho-Chunk Nation of Wisconsin
Hoh Indian Tribe (previously listed as the Hoh Indian Tribe of the Hoh Indian Reservation, Washington)
Hoopa Valley Tribe, California
Hopi Tribe of Arizona
Hopland Band of Pomo Indians, California (formerly Hopland Band of Pomo Indians of the Hopland Rancheria, California)
Houlton Band of Maliseet Indians
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona
Iipay Nation of Santa Ysabel, California (previously listed as the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation)
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California
Ione Band of Miwok Indians of California
Iowa Tribe of Kansas and Nebraska
Iowa Tribe of Oklahoma
Jackson Band of Miwuk Indians (previously listed as the Jackson Rancheria of Me-Wuk Indians of California)
Jamestown S'Klallam Tribe
Jamul Indian Village of California
Jena Band of Choctaw Indians
Jicarilla Apache Nation, New Mexico
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona
Kalispel Indian Community of the Kalispel Reservation
Karuk Tribe (previously listed as the Karuk Tribe of California)
Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California
Kaw Nation, Oklahoma
Kewa Pueblo, New Mexico (previously listed as the Pueblo of Santo Domingo)
Keweenaw Bay Indian Community, Michigan
Kialegee Tribal Town
Kickapoo Traditional Tribe of Texas
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
Kickapoo Tribe of Oklahoma
Kiowa Indian Tribe of Oklahoma
Klamath Tribes
Koi Nation of Northern California (previously listed as the Lower Lake Rancheria, California)
Kootenai Tribe of Idaho
La Jolla Band of Luiseno Indians, California (previously listed as the La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation)
La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin
Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan
Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada
Little River Band of Ottawa Indians, Michigan
Little Traverse Bay Bands of Odawa Indians, Michigan
Lone Pine Paiute-Shoshone Tribe (previously listed as the Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California)
Los Coyotes Band of Cahuilla and Cupeno Indians, California (previously listed as the Los Coyotes Band of Cahuilla & Cupeno Indians of the Los Coyotes Reservation)
Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
Lower Elwha Tribal Community (previously listed as the Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington)
Lower Sioux Indian Community in the State of Minnesota
Lummi Tribe of the Lummi Reservation
Lytton Rancheria of California
Makah Indian Tribe of the Makah Indian Reservation
Manchester Band of Pomo Indians of the Manchester Rancheria, California (previously listed as the Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California)
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California
Mashantucket Pequot Indian Tribe (previously listed as the Mashantucket Pequot Tribe of Connecticut)
Mashpee Wampanoag Tribe (previously listed as the Mashpee Wampanoag Indian Tribal Council, Inc.)
Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan
Mechoopda Indian Tribe of Chico Rancheria, California
Menominee Indian Tribe of Wisconsin
Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
Miami Tribe of Oklahoma
Miccosukee Tribe of Indians
Middletown Rancheria of Pomo Indians of California
Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band)
Mississippi Band of Choctaw Indians
Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada

Mohegan Tribe of Indians of Connecticut (previously listed as Mohegan Indian Tribe of Connecticut)
Mooretown Rancheria of Maidu Indians of California
Morongo Band of Mission Indians, California (previously listed as the Morongo Band of Cahuilla Mission Indians of the Morongo Reservation)
Muckleshoot Indian Tribe (previously listed as the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington)
Narragansett Indian Tribe
Navajo Nation, Arizona, New Mexico & Utah
Nez Perce Tribe (previously listed as the Nez Perce Tribe of Idaho)
Nisqually Indian Tribe (previously listed as the Nisqually Indian Tribe of the Nisqually Reservation, Washington)
Nooksack Indian Tribe
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
Northfork Rancheria of Mono Indians of California
Northwestern Band of Shoshoni Nation (previously listed as the Northwestern Band of Shoshoni Nation of Utah (Washakie)
Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.)
Oglala Sioux Tribe (previously listed as the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota)
Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan)
Omaha Tribe of Nebraska
Oneida Nation of New York
Oneida Tribe of Indians of Wisconsin
Onondaga Nation
Otoe-Missouria Tribe of Indians, Oklahoma
Ottawa Tribe of Oklahoma
Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes (formerly Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes))
Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
Pala Band of Mission Indians (previously listed as the Pala Band of Luiseno Mission Indians of the Pala Reservation, California) Pascua Yaqui Tribe of Arizona
Paskenta Band of Nomlaki Indians of California
Passamaquoddy Tribe
Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California
Pawnee Nation of Oklahoma
Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California
Penobscot Nation (previously listed as the Penobscot Tribe of Maine)
Peoria Tribe of Indians of Oklahoma
Picayune Rancheria of Chukchansi Indians of California
Pinoleville Pomo Nation, California (previously listed as the Pinoleville Rancheria of Pomo Indians of California)
Pit River Tribe, California (includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek and Roaring Creek Rancherias)
Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama)
Pokagon Band of Potawatomi Indians, Michigan and Indiana
Ponca Tribe of Indians of Oklahoma
Ponca Tribe of Nebraska
Port Gamble S'Klallam Tribe (previously listed as the Port Gamble Band of S'Klallam Indians)
Potter Valley Tribe, California
Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas)
Prairie Island Indian Community in the State of Minnesota
Pueblo of Acoma, New Mexico
Pueblo of Cochiti, New Mexico
Pueblo of Isleta, New Mexico
Pueblo of Jemez, New Mexico
Pueblo of Laguna, New Mexico
Pueblo of Nambe, New Mexico
Pueblo of Picuris, New Mexico
Pueblo of Pojoaque, New Mexico
Pueblo of San Felipe, New Mexico
Pueblo of San Ildefonso, New Mexico
Pueblo of Sandia, New Mexico
Pueblo of Santa Ana, New Mexico
Pueblo of Santa Clara, New Mexico
Pueblo of Taos, New Mexico
Pueblo of Tesuque, New Mexico
Pueblo of Zia, New Mexico
Puyallup Tribe of the Puyallup Reservation
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
Quartz Valley Indian Community of the Quartz Valley Reservation of California
Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona
Quileute Tribe of the Quileute Reservation
Quinault Indian Nation (previously listed as the Quinault Tribe of the Quinault Reservation, Washington)
Ramona Band of Cahuilla, California (previously listed as the Ramona Band or Village of Cahuilla Mission Indians of California)
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
Red Lake Band of Chippewa Indians, Minnesota
Redding Rancheria, California
Redwood Valley or Little River Band of Pomo Indians of the Redwood Valley Rancheria California (previously listed as the Redwood Valley Rancheria of Pomo Indians of California)
Reno-Sparks Indian Colony, Nevada
Resighini Rancheria, California
Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California
Robinson Rancheria (previously listed as the Robinson Rancheria Band of Pomo Indians, California and the Robinson Rancheria of Pomo Indians of California)
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
Round Valley Indian Tribes, Round Valley Reservation, California (previously listed as the Round Valley Indian Tribes of the Round Valley Reservation, California)
Sac & Fox Nation of Missouri in Kansas and Nebraska
Sac & Fox Nation, Oklahoma
Sac & Fox Tribe of the Mississippi in Iowa
Saginaw Chippewa Indian Tribe of Michigan
Saint Regis Mohawk Tribe (previously listed as the St. Regis Band of Mohawk Indians of New York)
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington)
San Carlos Apache Tribe of the San Carlos Reservation, Arizona
San Juan Southern Paiute Tribe of Arizona
San Manuel Band of Mission Indians, California (previously listed as the San Manual Band of Serrano Mission Indians of the San Manual Reservation)
San Pasqual Band of Diegueno Mission Indians of California
Santa Rosa Band of Cahuilla Indians, California (previously listed as the Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation)
Santa Rosa Indian Community of the Santa Rosa Rancheria, California
Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California
Santee Sioux Nation, Nebraska
Sauk-Suiattle Indian Tribe
Sault Ste. Marie Tribe of Chippewa Indians, Michigan
Scotts Valley Band of Pomo Indians of California

Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations))
Seneca Nation of Indians (previously listed as the Seneca Nation of New York)
Seneca-Cayuga Nation (previously listed as the Seneca-Cayuga Tribe of Oklahoma)
Shakopee Mdewakanton Sioux Community of Minnesota
Shawnee Tribe
Sherwood Valley Rancheria of Pomo Indians of California
Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California
Shinnecock Indian Nation
Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington)
Shoshone Tribe of the Wind River Reservation, Wyoming
Shoshone-Bannock Tribes of the Fort Hall Reservation
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota
Skokomish Indian Tribe (previously listed as the Skokomish Indian Tribe of the Skokomish Reservation, Washington)
Skull Valley Band of Goshute Indians of Utah
Snoqualmie Indian Tribe (previously listed as the Snoqualmie Tribe, Washington)
Soboba Band of Luiseno Indians, California
Sokaogon Chippewa Community, Wisconsin
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
Spirit Lake Tribe, North Dakota
Spokane Tribe of the Spokane Reservation
Squaxin Island Tribe of the Squaxin Island Reservation
St. Croix Chippewa Indians of Wisconsin
Standing Rock Sioux Tribe of North & South Dakota
Stillaguamish Tribe of Indians of Washington (previously listed as the Stillaguamish Tribe of Washington)
Stockbridge Munsee Community, Wisconsin
Summit Lake Paiute Tribe of Nevada
Suquamish Indian Tribe of the Port Madison Reservation
Susanville Indian Rancheria, California
Swinomish Indian Tribal Community (previously listed as the Swinomish Indians of the Swinomish Reservation of Washington)
Sycuan Band of the Kumeyaay Nation
Table Mountain Rancheria of California
Tejon Indian Tribe
Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band and Wells Band)
The Chickasaw Nation
The Choctaw Nation of Oklahoma
The Modoc Tribe of Oklahoma
The Muscogee (Creek) Nation
The Osage Nation (previously listed as the Osage Tribe)
The Quapaw Tribe of Indians
The Seminole Nation of Oklahoma
Thlopthlocco Tribal Town
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
Tohono O'odham Nation of Arizona
Tolowa Dee-ni' Nation (previously listed as the Smith River Rancheria, California)
Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York)
Tonkawa Tribe of Indians of Oklahoma
Tonto Apache Tribe of Arizona
Torres Martinez Desert Cahuilla Indians, California (previously listed as the Torres-Martinez Band of Cahuilla Mission Indians of California)
Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington)
Tule River Indian Tribe of the Tule River Reservation, California
Tunica-Biloxi Indian Tribe
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California
Turtle Mountain Band of Chippewa Indians of North Dakota
Tuscarora Nation
Twenty-Nine Palms Band of Mission Indians of California
United Auburn Indian Community of the Auburn Rancheria of California
United Keetoowah Band of Cherokee Indians in Oklahoma
Upper Sioux Community, Minnesota
Upper Skagit Indian Tribe
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah
Ute Mountain Ute Tribe (previously listed as the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah)
Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California
Walker River Paiute Tribe of the Walker River Reservation, Nevada
Wampanoag Tribe of Gay Head (Aquinnah)
Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches)
White Mountain Apache Tribe of the Fort Apache Reservation, Arizona
Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma
Wilton Rancheria, California
Winnebago Tribe of Nebraska
Winnemucca Indian Colony of Nevada
Wiyot Tribe, California (previously listed as the Table Bluff Reservation—Wiyot Tribe)
Wyandotte Nation
Yankton Sioux Tribe of South Dakota
Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona
Yavapai-Prescott Indian Tribe (previously listed as the Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona)
Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada
Yocha Dehe Wintun Nation, California (previously listed as the Rumsey Indian Rancheria of Wintun Indians of California)
Yomba Shoshone Tribe of the Yomba Reservation, Nevada
Ysleta del Sur Pueblo (previously listed as the Ysleta Del Sur Pueblo of Texas)
Yurok Tribe of the Yurok Reservation, California
Zuni Tribe of the Zuni Reservation, New Mexico

Native Entities Within the State of Alaska Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs

Agdaagux Tribe of King Cove
Akiachak Native Community
Akiak Native Community
Alatna Village
Algaaciq Native Village (St. Mary's)
Allakaket Village
Alutiiq Tribe of Old Harbor (previously listed as Native Village of Old Harbor and Village of Old Harbor)
Angoon Community Association
Anvik Village
Arctic Village (See Native Village of Venetie Tribal Government)
Asa'carsarmiut Tribe
Atqasuk Village (Atkasook)
Beaver Village
Birch Creek Tribe
Central Council of the Tlingit & Haida Indian Tribes
Chalkyitsik Village
Cheesh-Na Tribe (previously listed as the Native Village of Chistochina)
Chevak Native Village
Chickaloon Native Village
Chignik Bay Tribal Council (previously listed as the Native Village of Chignik)
Chignik Lake Village
Chilkat Indian Village (Klukwan)
Chilkoot Indian Association (Haines)
Chinik Eskimo Community (Golovin)
Chuloonawick Native Village
Circle Native Community
Craig Tribal Association (previously listed as the Craig Community Association)

Curyung Tribal Council
Douglas Indian Association
Egegik Village
Eklutna Native Village
Emmonak Village
Evansville Village (aka Bettles Field)
Galena Village (aka Louden Village)
Gulkana Village
Healy Lake Village
Holy Cross Village
Hoonah Indian Association
Hughes Village
Huslia Village
Hydaburg Cooperative Association
Igiugig Village
Inupiat Community of the Arctic Slope
Iqurmuit Traditional Council
Ivanoff Bay Tribe (previously listed as the Ivanoff Bay Village)
Kaguyak Village
Kaktovik Village (aka Barter Island)
Kasigluk Traditional Elders Council
Kenaitze Indian Tribe
Ketchikan Indian Corporation
King Island Native Community
King Salmon Tribe
Klawock Cooperative Association
Knik Tribe
Kokhanok Village
Koyukuk Native Village
Levelock Village
Lime Village
Manley Hot Springs Village
Manokotak Village
McGrath Native Village
Mentasta Traditional Council
Metlakatla Indian Community, Annette Island Reserve
Naknek Native Village
Native Village of Afognak
Native Village of Akhiok
Native Village of Akutan
Native Village of Aleknagik
Native Village of Ambler
Native Village of Atka
Native Village of Barrow Inupiat Traditional Government
Native Village of Belkofski
Native Village of Brevig Mission
Native Village of Buckland
Native Village of Cantwell
Native Village of Chenega (aka Chanega)
Native Village of Chignik Lagoon
Native Village of Chitina
Native Village of Chuathbaluk (Russian Mission, Kuskokwim)
Native Village of Council
Native Village of Deering
Native Village of Diomede (aka Inalik)
Native Village of Eagle
Native Village of Eek
Native Village of Ekuk
Native Village of Ekwok (previously listed as Ekwok Village)
Native Village of Elim
Native Village of Eyak (Cordova)
Native Village of False Pass
Native Village of Fort Yukon
Native Village of Gakona
Native Village of Gambell
Native Village of Georgetown
Native Village of Goodnews Bay
Native Village of Hamilton
Native Village of Hooper Bay
Native Village of Kanatak
Native Village of Karluk
Native Village of Kiana
Native Village of Kipnuk
Native Village of Kivalina
Native Village of Kluti Kaah (aka Copper Center)
Native Village of Kobuk
Native Village of Kongiganak
Native Village of Kotzebue
Native Village of Koyuk
Native Village of Kwigillingok
Native Village of Kwinhagak (aka Quinhagak)
Native Village of Larsen Bay
Native Village of Marshall (aka Fortuna Ledge)
Native Village of Mary's Igloo
Native Village of Mekoryuk
Native Village of Minto
Native Village of Nanwalek (aka English Bay)
Native Village of Napaimute
Native Village of Napakiak
Native Village of Napaskiak
Native Village of Nelson Lagoon
Native Village of Nightmute
Native Village of Nikolski
Native Village of Noatak
Native Village of Nuiqsut (aka Nooiksut)
Native Village of Nunam Iqua (previously listed as the Native Village of Sheldon's Point)
Native Village of Nunapitchuk
Native Village of Ouzinkie
Native Village of Paimiut
Native Village of Perryville
Native Village of Pilot Point
Native Village of Pitka's Point
Native Village of Point Hope
Native Village of Point Lay
Native Village of Port Graham
Native Village of Port Heiden
Native Village of Port Lions
Native Village of Ruby
Native Village of Saint Michael
Native Village of Savoonga
Native Village of Scammon Bay
Native Village of Selawik
Native Village of Shaktoolik
Native Village of Shishmaref
Native Village of Shungnak
Native Village of Stevens
Native Village of Tanacross
Native Village of Tanana
Native Village of Tatitlek
Native Village of Tazlina
Native Village of Teller
Native Village of Tetlin
Native Village of Tuntutuliak
Native Village of Tununak
Native Village of Tyonek
Native Village of Unalakleet
Native Village of Unga
Native Village of Venetie Tribal Government (Arctic Village and Village of Venetie)
Native Village of Wales
Native Village of White Mountain
Nenana Native Association
New Koliganek Village Council
New Stuyahok Village
Newhalen Village
Newtok Village
Nikolai Village
Ninilchik Village
Nome Eskimo Community
Nondalton Village
Noorvik Native Community
Northway Village
Nulato Village
Nunakauyarmiut Tribe
Organized Village of Grayling (aka Holikachuk)
Organized Village of Kake
Organized Village of Kasaan
Organized Village of Kwethluk
Organized Village of Saxman
Orutsararmiut Traditional Native Council (previously listed as Orutsararmuit Native Village (aka Bethel))
Oscarville Traditional Village
Pauloff Harbor Village
Pedro Bay Village
Petersburg Indian Association
Pilot Station Traditional Village
Platinum Traditional Village
Portage Creek Village (aka Ohgsenakale)
Pribilof Islands Aleut Communities of St. Paul & St. George Islands
Qagan Tayagungin Tribe of Sand Point Village
Qawalangin Tribe of Unalaska
Rampart Village
Saint George Island (See Pribilof Islands Aleut Communities of St. Paul & St. George Islands)
Saint Paul Island (See Pribilof Islands Aleut Communities of St. Paul & St. George Islands)
Seldovia Village Tribe
Shageluk Native Village
Sitka Tribe of Alaska
Skagway Village
South Naknek Village
Stebbins Community Association
Sun'aq Tribe of Kodiak (previously listed as the Shoonaq' Tribe of Kodiak)
Takotna Village
Tangirnaq Native Village (formerly Lesnoi Village (aka Woody Island))
Telida Village
Traditional Village of Togiak
Tuluksak Native Community
Twin Hills Village
Ugashik Village
Umkumiut Native Village (previously listed as Umkumiute Native Village)
Village of Alakanuk
Village of Anaktuvuk Pass
Village of Aniak

Village of Atmautluak
Village of Bill Moore's Slough
Village of Chefornak
Village of Clarks Point
Village of Crooked Creek
Village of Dot Lake
Village of Iliamna
Village of Kalskag
Village of Kaltag
Village of Kotlik
Village of Lower Kalskag
Village of Ohogamiut
Village of Red Devil
Village of Salamatoff
Village of Sleetmute
Village of Solomon
Village of Stony River
Village of Venetie (See Native Village of Venetie Tribal Government)
Village of Wainwright
Wrangell Cooperative Association
Yakutat Tlingit Tribe
Yupiit of Andreafski

[FR Doc. 2016–01769 Filed 1–28–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–0007]

Agency Information Collection Activities; Proposed eCollection; eComments Requested; Immigration Practitioner Complaint Form

AGENCY: Executive Office for Immigration Review, Department of Justice

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until March 29, 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 Jean King, General Counsel, Executive Office for Immigration Review, U.S. Department of Justice, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 22041; telephone: (703) 305–0470.

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 Executive Office for Immigration Review, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension Without Change of a Currently Approved Collection.

2. *The Title of the Form/Collection:* Immigration Practitioner Complaint Form.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form EOIR–44. The applicable component within the Department of Justice is the Office of General Counsel, Executive Office for Immigration Review.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals who wish to file a complaint against an immigration practitioner authorized to appear before the Board of Immigration Appeals and the immigration courts. Abstract: The information on this form will be used to determine whether the Office of the General Counsel of the Executive Office for Immigration Review should conduct a preliminary disciplinary inquiry, request additional information from the complainant, refer the matter to a state bar disciplinary authority or other law enforcement agency, or take no further action.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 200 respondents will complete the form annually, with an average of 2 hours per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 400 hours. It is estimated that respondents will take 2 hours to complete the form. The burden hours for collecting respondent data sum to 400 hours (200 respondents × 2 hours = 400 hours).

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: January 25, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–01692 Filed 1–28–16; 8:45 am]

BILLING CODE 4410–30–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings; National Science Board

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended, (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of meetings for the transaction of National Science Board business as follows:

DATE AND TIME: February 2, 2016 from 8:00 a.m. to 5:10 p.m., and February 3, 2016 from 8:50 a.m. to 1:30 p.m. EST.

PLACE: These meetings will be held at the National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230. All visitors must contact the Board Office (call 703–292–7000 or send an email to *nationalsciencebrd@nsf.gov*) at least 24 hours prior to the meeting and provide your name and organizational affiliation. Visitors must report to the NSF visitors desk in the lobby of the 9th and N. Stuart Street entrance to receive a visitor's badge.

WEBCAST INFORMATION: Public meetings and public portions of meetings will be webcast. To view the meetings, go to *http://www.tvworldwide.com/events/nsf/160202/* and follow the instructions.

UPDATES: Please refer to the National Science Board Web site for additional information. Meeting information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp.*

AGENCY CONTACT: Ron Campbell, *jrcampbe@nsf.gov,* 703–292–7000.

PUBLIC AFFAIRS CONTACT: Nadine Lymn, *nlymn@nsf.gov,* 703–292–2490.

STATUS: Portions open; portions closed.

OPEN SESSIONS:

February 2, 2016

8:00–8:30 a.m. (Plenary introduction, NSB Chair and NSF Director Reports)
8:30–10:10 a.m. (CPP)
11:30–11:45 a.m. (Plenary)
1:50–2:35 p.m. (Joint meeting CPP, CSB and SCF)
3:40–4:10 p.m. (SCF)
4:10–5:10 p.m. (AO)

February 3, 2016

8:50–9:50 a.m. (SEI)
9:50–10:05 a.m. (CSB)
1:00–1:30 p.m. (Plenary)

CLOSED SESSIONS:

February 2, 2016

10:25–11:25 a.m. (CPP)
12:50–1:50 p.m. (Plenary)
2:40–3:25 p.m. (Joint meeting CPP, CSB and SCF)

February 3, 2016

10:10–10:50 a.m. (CSB)
11:15–11:30 a.m. (Plenary executive)
12:30–1:00 p.m. (Plenary)

MATTERS TO BE DISCUSSED:

Tuesday, February 2, 2016

Plenary Board Meeting

Open Session: 8:00–8:30 a.m.

Introduction and NSB Chair's Report
NSF Director's Report

Committee on Programs and Plans (CPP)

Open Session: 8:30–10:10 a.m.

CPP Chair's remarks
- Arctic contract update
- CY 2016 schedule of planned action and information items
- Information item—Extreme Science and Engineering Discovery Environment (XSEDE)
- Information item—National Superconducting Cyclotron Laboratory (NSCL)

Approval of open CPP minutes for November 2015
Information item—Update on icebreaker support for McMurdo Station
Information item—iPlant
An overview of infrastructure investments in the Mathematical and Physical Sciences Directorate
CPP Chair's closing remarks

Committee on Programs and Plans

Closed Session: 10:25–11:25 a.m.

CPP Chair's remarks
Approval of closed CPP minutes for November 2015
NSB action item—Gemini Observatory
NSB action item—Stampede 2
CPP Chair's closing remarks

Plenary Board Meeting

Open Session: 11:30–11:45 a.m.

NSB Chair's remarks
Guest speaker—Senator Gary Peters
NSB Chair's closing remarks

Plenary Board Meeting

Closed Session: 12:50–1:50 p.m.

NSB Chair's remarks
NEON update and next steps
NSB Chair's closing remarks

Joint Meeting—Committee on Programs and Plans, Committee on Strategy and Budget and Subcommittee on Facilities

Open Session: 1:50–2:35 p.m.

Committee Chairs' remarks
Discussion of facilities planning
Committee Chair's closing remarks

Joint Meeting—Committee on Programs and Plans, Committee on Strategy and Budget, and Subcommittee on Facilities

Closed Session: 2:40–3:25 p.m.

Committee Chairs' remarks
Discussion of facilities planning, including future planning and budgets
Discussion of emerging needs in science and engineering
Chairs' closing remarks

Subcommittee on Facilities (SCF)

Open Session: 3:40–4:10 p.m.

SCF Chair's remarks
Approval of open SCF minutes from November 2015
Discussion of SCF's roles and responsibilities
Discussion of SCF 2016 activities
SCF Chair's closing remarks

Committee on Audit and Oversight (A&O)

Open Session: 4:10–5:10 p.m.

A&O Chair's remarks
Approval of open A&O minutes from November 2015
Update on NAPA report
Inspector General's update, including Presentation on FY 2015 Financial Statement and FISMA audit results
Chief Financial Officer's update, including Presentation on internal control quality assurance program
Update on two-month salary support compensation policy
A&O Chair's closing remarks

Matters To Be Discussed

Wednesday, February 3, 2016

Committee on Science and Engineering Indicators (SEI)

Open Session: 8:50–9:50 a.m.

SEI Chair's remarks
Approval of open SEI minutes for January 5, 2016 teleconference
Update on *Science and Engineering Indicators 2016* outreach
Update and discussion of the *Science and Engineering Indicators 2016* companion briefs
Update and discussion of proposed workshop: ''Future of *Science and Engineering Indicators''*
SEI Chair's closing remarks

Committee on Strategy and Budget (CSB)

Open Session: 9:50–10:05 a.m.

CSB Chair's remarks
Approval of open CSB minutes for November 2015
NSF FY 2016 budget update
CSB Chair's closing remarks

Committee on Strategy and Budget

Closed Session: 10:10–10:50 a.m.

CSB Chair's remarks
Approval of closed CSB minutes for November 2015
NSF FY 2016 budget issues under negotiation
NSF FY 2017 budget request update
Discussion of Board's FY 2017 budget testimony
CSB Chair's closing remarks

Plenary Board (Executive)

Closed Session: 11:15–11:30 a.m.

NSB Chair's remarks
Approval of closed executive minutes for November and December 2015
Elections Committee update
NOMS Committee report
NSB Chair's closing remarks

Plenary Board

Closed Session: 12:30–1:00 p.m.

NSB Chair's remarks
Approval of closed plenary minutes for November 2015
Approval of Stampede 2 preliminary resolution
Approval of Gemini preliminary resolution
Closed committee reports
NSB Chair's closing remarks

Plenary Board

Open Session: 1:00–1:30 p.m.

NSB Chair's remarks
NSF Director's remarks
Approval of open plenary minutes for November 2015

NEON update from the Chair of the ad hoc task force on NEON Performance and Plans

Open committee reports

NSB Chair's closing remarks

Meeting Adjourns: 1:30 p.m.

Kyscha Slater-Williams,

Program Specialist, National Science Board.

[FR Doc. 2016–01757 Filed 1–27–16; 4:15 pm]

BILLING CODE 7555–01–P

POSTAL SERVICE

Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

DATES AND TIMES: Tuesday, February 9, 2016, at 12:00 noon.

PLACE: via Teleconference.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Tuesday, February 9, 2016, at 12:00 Noon

1. Strategic Issues.
2. Financial Matters.
3. Pricing.
4. Personnel Matters and Compensation Issues.
5. Executive Session—Discussion of prior agenda items and Board governance.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Requests for information about the meeting should be addressed to the Secretary of the Board, Julie S. Moore, at 202–268–4800.

Julie S. Moore,

Secretary, Board of Governors.

[FR Doc. 2016–01776 Filed 1–27–16; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76971; File No. SR–NYSE–2015–46]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings To Determine Whether To Disapprove a Proposed Rule Change To Establish Rules To Comply With the Quoting and Trading Requirements of the Plan To Implement a Tick Size Pilot Plan Submitted to the Commission Pursuant to Rule 608 of Regulation NMS Under the Act

January 25, 2016.

I. Introduction

On October 9, 2015, New York Stock Exchange LLC (''NYSE'' 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 establish rules to comply with the quoting and trading requirements of the Plan to Implement a Tick Size Pilot Program (''Plan'') submitted to the Commission pursuant to Rule 608 of Regulation NMS under the Act (''Tick Size Pilot''). The proposed rule change was published for comment in the **Federal Register** on October 28, 2015.[3] The Commission has received two comment letters on the proposal.[4] On December 3, 2015, the Commission designated a longer period for Commission action on the proposed rule change, until January 26, 2016.[5] On January 15, 2016, the Exchange, on behalf of NYSE Arca, Inc., NYSE MKT LLC, and the Chicago Stock Exchange, Inc. (''CHX''), submitted a letter in response to the comment letters.[6] This order institutes proceedings under Section 19(b)(2)(B) of the Act [7] to determine whether to disapprove the proposed rule change.

II. Description of the Proposed Rule Change

NYSE proposes to adopt NYSE Rule 67(a), (c), (d), and (e) [8] to implement the quoting and trading requirements of the Tick Size Pilot. Proposed Rule 67(a)(1) contains definitions [9] of ''Plan,'' [10] ''Pilot Test Groups,'' [11] ''Trading Center,'' [12] and ''Retail Investor Order.'' [13]

Proposed NYSE Rule 67(a)(2) provides that the Exchange is a Participant [14] in the Plan and is subject to the applicable requirements of the Plan.[15] Proposed NYSE Rule 67(a)(3) provides that member organizations shall establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the applicable requirements of the Plan.[16]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 76229 (October 22, 2015), 80 FR 66065 (''Notice'').

[4] *See* letters from Mary Lou Von Kaenel, Managing Director, Financial Information Forum, dated November 5, 2015 (''FIF Letter''); and Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated December 18, 2015 (''SIFMA Letter'').

[5] *See* Securities Exchange Act Release No. 76551, 80 FR 76602 (December 9, 2015).

[6] *See* letter from Brendon J. Weiss, Co-Head, Government Affairs, Intercontinental Exchange, Inc. and John K. Kerin, CEO, Chicago Stock Exchange, Inc., dated January 15, 2016 (''Response Letter''). In the Response Letter, the Exchange also commented on proposed rule changes submitted by the Financial Industry Regulatory Authority, Inc. (''FINRA'') and BATS Exchange, Inc. (''BATS'') to implement the quoting and trading requirements of the Tick Size Pilot. *See* Securities Exchange Act Release Nos. 76483 (November 19, 2015), 80 FR 73853 (November 25, 2015) (SR–FINRA–2015–047) and 76552 (December 3, 2015), 80 FR 76591 (December 9, 2015) (SR–BATS–2015–108) (together the ''FINRA/BATS Proposals'').

[7] 15 U.S.C. 78s(b)(2)(B).

[8] The Exchange has reserved proposed Rule 67(b) for future use to require compliance by its member organizations with the collection of data pursuant to the Plan.

[9] Proposed NYSE Rule 67(a)(1)(E) provides that all capitalized terms not otherwise defined in proposed NYSE Rule 67 shall have the meanings set forth in the Tick Size Pilot, Regulation NMS under the Exchange Act, or Exchange Rules.

[10] NYSE proposes to define the ''Plan'' as the Tick Size Pilot plan submitted to the Commission pursuant to Rule 608 of Regulation NMS. *See* proposed NYSE Rule 67(a)(1)(A).

[11] NYSE proposes to define ''Pilot Test Groups'' as the three test groups established under the Plan, consisting of 400 Pilot Securities each, which satisfy the respective criteria established under the Plan for each such test group. *See* proposed NYSE Rule 67(a)(1)(B).

[12] NYSE proposes to define ''Trading Center'' as having the same meaning as Rule 600(b)(78) of Regulation NMS and for purposes of a Trading Center operated by a broker-dealer, means an independent trading unit, as defined under Rule 200(f) of Regulation SHO, within such broker-dealer. *See* proposed NYSE Rule 67(a)(1)(C).

[13] NYSE proposes to define ''Retail Investor Order'' as an agency order or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a retail member organization (or a divisions thereof that has been approved by the Exchange under the Exchange's retail liquidity program (Rule 107C) to submit Retail Investor Orders), provided that no change is made to the terms of the order with respect to the price or side of market and the order does not originate from a trading algorithm or any other computerized technology. A Retail Investor Order is an immediate or cancel orders that operate in accordance with the Exchange's retail liquidity program as set forth in NYSE Rule 107C. *See* proposed NYSE Rule 67(a)(1)(D).

[14] Unless otherwise noted, capitalized terms not defined in this order shall have the meanings set forth in the Plan.

[15] *See* Proposed NYSE Rule 67(a)(2).

[16] *See* Proposed NYSE Rule 67(a)(3).

Proposed NYSE Rule 67(a)(4) provides that Exchange systems will not display, quote, or trade in violation of the applicable quoting and trading requirements for a Pilot Security specified in the Plan the NYSE Rule 67, unless such quotation or transaction is specifically exempted under the Plan.[17]

Proposed NYSE Rule 67(a)(5) defines the procedure for dealing with Pilot Securities that drop below $1.00 during the Pilot Period. If the price of a Pilot Security drops below $1.00 during regular trading but does not have a Closing Price below $1.00, the Pilot Security will continue to trade according to the quoting and trading requirements of its originally assigned Test Group in the Plan. If a Pilot Security has a Closing Price below $1.00, the Pilot Security would be moved from its respective Test Group into the Control Group, and would be quoted and traded at any price increment that is currently permitted by Exchange rules for the remainder of the Pilot Period.[18] Proposed NYSE Rule 67(a)(5) further provides that notwithstanding anything to the contrary, at all times during the Pilot Period, Pilot Securities (whether in the Control Group or any Pilot Test Group) will continue to be subject to the requirements contained in Paragraph (b).[19]

Proposed NYSE Rule 67(c) describes the quoting and trading requirements of Pilot Securities in Test Group One. Specifically, NYSE proposes that no member may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05 for Pilot Securities in Test Group One.[20] Orders priced to trade at the midpoint of the national best bid and national best offer (''NBBO'') or best protected bid and best protected offer (''PBBO'') and orders entered into the Exchange's Retail Liquidity Program as Retail Price Improvement Orders may be ranked and accepted in increments of less than $0.05.[21] Pilot Securities in Test Group One may continue to trade at any price increment currently permitted.[22]

Proposed NYSE Rule 67(d) describes the quoting and trading requirements of Pilot Securities in Test Group Two. Specifically, NYSE proposes that no member may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05 for Pilot Securities in Test Group Two.[23] Further, NYSE proposes that absent any enumerated exceptions, no member organization may execute orders in any Test Group Two Pilot Security in a price increment other than $0.05.[24] Proposed NYSE Rule 67(d)(3) provides for three exceptions where Test Group Two Pilot Securities could trade in increments of less than $0.05. First, trading could occur at the midpoint between the NBBO or the PBBO.[25] Second, Retail Investor Orders may be provided with price improvement that is at least $0.005 better than the PBBO.[26] Finally, Negotiated Trades may trade in increment less than $0.05.[27]

Proposed NYSE Rule 67(e) describes the quoting and trading requirements of Pilot Securities in Test Group Three. NYSE proposes for Pilot Securities in Test Group Three no member organization may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05.[28] Proposed NYSE Rule 67(e)(2) states that absent an enumerated exception, no member organization may execute orders in any Test Group Three Pilot Security in a price increment other than $0.05.[29] Proposed NYSE Rule 67(e)(3) provides for the same three exceptions as in Test Group Two.[30]

Proposed NYSE Rule 67(e)(4) states the Test Group Three Pilot Securities will be subject to a Trade-at Prohibition. Proposed NYSE Rule 67(e)(4)(A) defines ''Trade-At Prohibition'' as the prohibition against executions by a Trading Center of a sell order for a Pilot Security at the Price of a Protected Bid or the execution of a buy order at the price of a Protected Offer during regular trading hours.[31] Proposed NYSE Rule 67(e)(4)(B) states that absent any enumerated exception, no member organization may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or a buy order at the price of a Protected Offer.

Proposed NYSE Rule 67(e)(4)(C) provides that a member organization may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer under the following 14 circumstances. First, an order may be executed by a Trading Center within a member organization that has a displayed quotation for the account of that Trading Center on a principal basis, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received, but only up to the full displayed size of the Trading Center's previously displayed quote.[32] In the Notice, NYSE stated that ''[b]y requiring the displayed quotation to be for the account of 'that Trading Center,' the Trading Center cannot rely on any quotations it may put up on an agency basis, including a riskless principal basis.''[33] NYSE further noted that ''[a] Trading Center that is a broker-dealer also cannot rely on any quotation that is not a displayed quotation for its own account, such as a quotation of another broker-dealer, or customer of such broker-dealer.''[34]

The second exception permits the execution of an order that consists of odd lot orders and odd lot portions of partial round lot orders that are displayed on the SRO Quotation Feed at the price equal to the traded-at Protected Quotation, up to the size of the displayed quotation.[35] The third exception allows the execution of an order that is of Block Size[36] at the time of origin and is not: An aggregation of non-block orders; broken into orders smaller than Block Size prior to submitting the order to a Trading Center for execution; or executed on multiple Trading Centers.[37]

The fourth exception permits the execution of a Retail Investor Order

[17] *See* Proposed NYSE Rule 67(a)(4).

[18] *See* Proposed NYSE Rule 67(a)(5).

[19] The Commission notes that the Exchange has reserved Paragraph (b) for the data collection contemplated under the Plan.

[20] *See* Proposed NYSE Rule 67(c).

[21] *See* Proposed NYSE Rule 67(c).

[22] *See* Proposed NYSE Rule 67(c).

[23] Similar to the exception in Test Group One, orders priced to trade at the midpoint of the NBBO or PBBO and orders entered into the Exchange's Retail Liquidity Program as Retail Price Improvement Orders may be ranked and accepted in increments of less than $0.05. *See* Proposed NYSE Rule 67(d).

[24] Proposed NYSE Rule 67(d)(2) applies to all trades, including Brokered Cross Trades.

[25] *See* Proposed NYSE Rule 67(d)(3)(A).

[26] *See* Proposed NYSE Rule 67(d)(3)(B).

[27] *See* Proposed NYSE Rule 67(d)(3)(C).

[28] Similar to the exceptions in Test Group One and Test Group Two, orders priced to trade at the midpoint of the NBBO or PBBO and orders entered into the Exchange's Retail Liquidity Program as Retail Price Improvement Orders may be ranked and accepted in increments of less than $0.05. *See* Proposed NYSE Rule 67(e)(1).

[29] Proposed NYSE Rule 67(e)(2) applies to all trades, including Brokered Cross Trades.

[30] *See* Proposed NYSE Rule 67(e)(3).

[31] *See* Proposed NYSE Rule 67(e)(4)(A).

[32] *See* Proposed NYSE Rule 67(e)(4)(C)(i).

[33] *See* Notice at note 26.

[34] *See* Notice at note 26.

[35] Proposed Supplementary Material .10 to NYSE Rule 67(e)(4)(c)(ii) states that a member would be prohibited from breaking round lot order or a round lot portion of a partial round lot into an odd lot order to avoid the restrictions of the proposed Rule.

[36] ''Block Size'' is defined in the Plan as an order (1) of at least 5,000 shares or (2) for a quantity of stock having a market value of at least $100,000.

[37] *See* Proposed NYSE Rule 67(e)(4)(C)(iii).

executed with at least $0.005 price improvement.[38] The firth exception permits the execution of an order when the Trading Center displaying the Protected Quotation that was traded-at experiences a failure, material delay, or malfunction of its systems or equipment.[39] The sixth exception permits the execution of an order as part of a transaction that was not a regular way contract.[40] The seventh exception permits the execution of an order as part of a single-priced opening, reopening, or closing transaction on the Exchange.[41] The eighth exception permits the execution of an order when a Protected Bid is priced higher than a Protected Offer in the Pilot Security.[42]

The ninth exception permits the execution of an order that is identified as a Trade-at Intermarket Sweep Order.[43] The tenth exception permits the execution of an order by a Trading Center that simultaneously routed Trade-at Intermarket Sweep Orders to execute against the full displayed size of the Protected Quotation that was traded at.[44] The eleventh exception permits the execution of an order that is part of a Negotiated Trade.[45] The twelfth exception permits the execution of an order when the Trading Center displaying the Protected Quotation that was traded at had displayed within one second prior to execution of the transaction that constituted the Trade-at, a Best Protected Bid or Best Protected Offer, as applicable, for the Pilot Security with a price that was inferior to the price of the Trade-at transaction.[46]

The thirteenth exception permits the execution of an order by a Trading Center, which at the time of order receipt, had guaranteed an execution at no worse than a specified price (a ''stopped order'') where: (1) The stopped order was for the account of a customer; (2) the customer agreed to the specified price on an order-by-order basis; and (3) the price of the Trade-at transaction was, for a stopped buy order, equal to the National Best Bid in the Pilot Security at the time of execution or, for a stopped sell order, equal to the National Best Offer in the Pilot Security at the time of execution.[47] Finally, the last exception permits the execution of an order that is for a fractional share of a Pilot Security, provided that such fractional share order was not the result of breaking an order for one or more whole shares of a Pilot Security into orders for fractional shares or was not otherwise effected to evade the requirements of the Tick Size Pilot.[48] Proposed NYSE Rule 67(D) states that no member organization shall break an order into smaller orders to evade the requirements of the Trade-at Prohibition or any provisions of the Plan.

III. Summary of Comments and the Exchange's Response

The Commission has received two comment letters on the proposed rule change and a response from the Exchange. One commenter expressed concern with the differences between the NYSE proposal and the rules to comply with the quoting and trading requirements of the Plan proposed in the FINRA/BATS Proposals,[49] particularly with respect to the Trade-at Prohibition.[50] The commenter noted that the NYSE proposal would limit a Trading Center from price matching a Protected Quotation to when the Trading Center is displaying in a principal capacity, while the FINRA/BATS Proposals are not so restrictive. The commenter stated its belief that the FINRA/BATS Proposals are more consistent with the terms of the Plan, and that the Commission should approve it instead. The commenter further stressed the importance of consistency in the rules implementing the Plan, and expressed the view that if the different proposals are approved, compliance by market participants ''would be virtually impossible.'' [51] This commenter also noted that there are differences in certain key defined terms, such as ''Retail Investor Order,'' between the NYSE proposal and the FINRA/BATS Proposals.[52]

The other commenter also expressed concern with the proposal's limitation of the exception to the Trade-at Prohibition discussed above to principal quotations, and with the certain defined terms, such as ''Retail Investor Order'' and ''Block Size''.[53] In addition, it suggested the inclusion of certain other exceptions that align with those available, through Commission exemption and guidance, in connection with Rule 611 of Regulation NMS, and raised questions as to whether the proposal was limited to the exchange-related activities of NYSE members, or would apply to their off-exchange activities as well.[54]

In its Response Letter, the Exchange expressed the view that its proposal is consistent with the goals of the Plan, including testing whether market participants are incentivized to display more liquidity in a wider tick environment. On the other hand, in the Exchange's opinion, the FINRA/BATS Proposals would create an incentive for trading in Test Group Three to migrate to dark venues, which would be inconsistent with the goals of the Plan. Specifically, the Exchange expressed the view that the FINRA/BATS Proposals would allow an alternative trading system (''ATS'') to execute matched trades of any of its participants at the price of a Traded-at Protected Quotation if the ATS is displaying, on an agency basis, a quotation of another participant at the Protected Quotation. Thus, the Exchange reasoned that the FINRA/BATS Proposals would allow trades by ATS participants at the price of a Protected Quotation without requiring them to display a Protected Quotation, but instead ''free-ride'' on the Protected Quotation of another participant in the ATS that is displayed, on an agency basis by the ATS. This would, in the opinion of the Exchange, ''eviscerate'' the requirement for dark pools to trade with Protected Quotations, and be contrary to the Commission's intent for the Trade-At Prohibition to test whether market participants are incentivized to display more liquidity in a wider tick environment.

The Exchange confirmed one commenter's understanding with respect to the Retail Investor Order exception and that the exception would allow for over-the-counter trading. Additionally, the Exchange stated that it opposed changing the Block Size exception as the Exchange does not believe that a trading center should be permitted to facilitate a block cross that aggregates multiple smaller orders, even if one component of the block meets the definition of Block Size Order.

IV. Proceedings To Determine Whether To Disapprove SR–NYSE–2015–46 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section

[38] *See* Proposed NYSE Rule 67(e)(4)(C)(iv).
[39] *See* Proposed NYSE Rule 67(e)(4)(C)(v).
[40] *See* Proposed NYSE Rule 67(e)(4)(C)(vi).
[41] *See* Proposed NYSE Rule 67(e)(4)(C)(vii).
[42] *See* Proposed NYSE Rule 67(e)(4)(C)(viii).
[43] *See* Proposed NYSE Rule 67(e)(4)(C)(ix).
[44] *See* Proposed NYSE Rule 67(e)(4)(C)(x).
[45] *See* Proposed NYSE Rule 67(e)(4)(C)(xi).
[46] *See* Proposed NYSE Rule 67(e)(4)(C)(xii).
[47] *See* Proposed NYSE Rule 67(e)(4)(C)(xiii).
[48] *See* Proposed NYSE Rule 67(e)(4)(C)(xiv).
[49] *See supra* note 6.
[50] *See* SIFMA Letter.
[51] *See* SIFMA Letter.
[52] *Id.*
[53] *See* FIF Letter.
[54] The commenter stated its belief that the additional qualifiers will inhibit a Trading Center from facilitating a block cross trade. *See* FIF Letter. The commenter also raised other issues not directly addressed by the Exchange's proposal, such as the timeline for implementation, additional exceptions for Trade-at Prohibition, and unanswered questions.

19(b)(2)(B) of the Act [55] to determine whether the Exchange's proposed rule change should be disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis whether to disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[56] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change's consistency with Section 6(b)(5) of the Act and Section 6(b)(8) of the Act. Section 6(b)(5) of the Act [57] requires that an exchange's rules be designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that they not be designed to permit unfair discrimination between customers, issuers, brokers or dealers. Section 6(b)(8) of the Act [58] requires that rules of the exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the Act.

The Exchange's proposal would establish rules for NYSE member organizations to comply with the quoting and trading requirements of the Tick Size Pilot. NYSE proposes to adopt a version of the Trade-at Prohibition that would be more restrictive than required by the Plan, the applicable provisions of which would permit a Trading Center to execute an order for a Pilot Security in Test Group Three if that Trading Center ''is displaying a quotation, via either a processor or an SRO quotation feed, at a price equal to the traded-at protected quotation but only up to the trading center's full displayed size.'' [59] The Exchange's proposal would limit the ability of a Trading Center to rely on this exception to the Trade-at Prohibition to situations where it is displaying a quotation as principal, and not where it is displaying a quotation as agent (including riskless principal). The Exchange justifies this additional restriction out of concern that Trading Centers that are ATSs might be used to execute a ''matched trade'' by an ATS participant that itself is not displaying a Protected Quotation, but instead is relying upon another ATS participant to do so, thereby creating a ''loophole'' in the Trade-at Prohibition. However, by precluding any Trading Center from relying on any quotation displayed as agent, the Exchange's proposal effectively would preclude all ATSs, which necessarily execute orders as agent, from executing transactions at the NBBO even if they are displaying a Protected Quotation. The Exchange has not clearly explained why it believes a new ATS business model—one that allows priority for participants executing ''matched trades'' over displayed quotations—is viable and likely to arise in the context of the Tick Size Pilot. Further, even if the Exchange were able to offer such an explanation, it has not clearly explained why there is not a more targeted way to address this potential loophole in the Trade-at Prohibition than one which precludes all ATSs, including those operating as traditional electronic communication networks, or ''ECNs,'' from executing transactions at the NBBO. The Commission therefore believes that questions are raised as to whether the proposed rule change is consistent with the requirements of Section 6(b)(5) and Section 6(b)(8) of the Act.

V. Commission's Solicitation of Comments

The Commission requests written views, data, and arguments with respect to the concerns identified above as well as other relevant concerns. Such comments should be submitted by February 19, 2016. Rebuttal comments should be submitted by March 4, 2016. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[60]

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, 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–2015–46 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–NYSE–2015–46. 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. 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 publicly available. All submissions should refer to File Number SR–NYSE–2015–46 and should be submitted on or before February 19, 2016. Rebuttal comments should be submitted by March 4, 2016.

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[55] 15 U.S.C. 78s(b)(2).

[56] 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. *Id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding. *Id.*

[57] *See* 15 U.S.C. 78f(b)(5).

[58] *See* 15 U.S.C. 78f(b)(8).

[59] *See* Tick Size Plan Section VI.D.1.

[60] 15 U.S.C. 78s(b)(2). Section 19(b)(2) of the Act grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[61]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–01691 Filed 1–28–16; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 9427]

Culturally Significant Objects Imported for Exhibition Determinations: ''Daubigny, Monet, Van Gogh: Impressions of Landscape'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Daubigny, Monet, Van Gogh: Impressions of Landscape,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Taft Museum of Art, Cincinnati, Ohio, from on or about February 19, 2016, until on or about May 29, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: January 20, 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–01764 Filed 1–28–16; 8:45 am]

BILLING CODE 4710–05–P

[61] 17 CFR 200.30–3(a)(57).

DEPARTMENT OF STATE

[Public Notice: 9426]

Culturally Significant Objects Imported for Exhibition Determinations: ''Unfinished: Thoughts Left Visible'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Unfinished: Thoughts Left Visible,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, New York, from on or about March 18, 2016, until on or about September 4, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: January 21, 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–01766 Filed 1–28–16; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 35989]

Central Midland Railway Company—Renewal of Lease Exemption with Interchange Commitment—Union Pacific Railroad Company Lackland Sub-Division

Central Midland Railway Company (CMR),[1] a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease from Union Pacific Railroad Company (UP), and to operate, approximately 8.65 miles of rail line and related industrial tracks, known as the Lackland Sub-Division, from milepost 10.35 at Rock Island Junction to milepost 19.0 west of Vigus in St. Louis County, Mo.[2]

In the verified notice, CMR states that CMR and UP have executed a Lease Agreement [3] (Agreement) which served to renew an agreement the parties had previously entered into in January 2003. According to CMR, the Agreement has an initial 10-year term that may be extended by CMR for an additional 10-year period. As required under 49 CFR 1150.43(h)(1), CMR has disclosed in its verified notice that the Agreement contains an interchange commitment that reduces the annual rent due to UP depending on the percentage of rail traffic originating or terminating on the line that is interchanged with UP via the Terminal Railroad Association of St. Louis at St. Louis. CMR has provided additional information regarding the interchange commitment, as required by 49 CFR 1150.43(h). CMR states that it will continue to be the operator of the line.

CMR certifies that the projected annual revenues as a result of the proposed transaction will not result in CMR's becoming a Class II or Class I rail carrier and will not exceed $5 million.

CMR intends to consummate the transaction on or shortly after February 14, 2016, the effective date of the exemption (30 days after the verified notice of exemption was filed). If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of

[1] CMR is wholly owned by Progressive Rail Inc.

[2] CMR was granted authority to lease and operate the rail line in *Central Midland Railway—Lease & Operation Exemption—Union Pacific Railroad,* FD 34308 (STB served Jan. 27, 2003).

[3] CMR filed a confidential, complete version of the Agreement with its notice of exemption to be kept confidential by the Board under 49 CFR 1104.14(a) without need for the filing of an accompanying motion for protective order under 49 CFR 1104.14(b).

a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed by February 5, 2016 (at least seven days prior to the date the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35989, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on applicant's representative, Audrey L. Brodrick, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

According to CMR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.''*

Decided: January 25, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2016–01698 Filed 1–28–16; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 26, 2016.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before February 29, 2016 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8117, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

Departmental Offices

OMB Control Number: 1505–0170.

Type of Review: Extension of a currently approved collection.

Title: Form for OFAC License Applications to Unblock Funds Transfers.

Form: TD F 90–22.54.

Abstract: Assets blocked pursuant to sanctions administered by Treasury's Office of Foreign Assets Control (OFAC) may be released only through a specific license issued by OFAC. Since February 2000, use of this form to apply for the unblocking of funds transfers has been mandatory pursuant to 31 CFR 501.801(b)(2).

Affected Public: Businesses or other for-profits.

Estimated Average Annual Burden per Response: 30 minutes.

Estimated Total Annual Burden Hours: 1,200.

OMB Control Number: 1505–0208.

Type of Review: Extension of a currently approved collection.

Title: Terrorism Risk Insurance Program—Cap on Annual Liability.

Abstract: The Terrorism Risk Insurance Act of 2002, as amended (TRIA), established the Terrorism Risk Insurance Program (TRIP), which the Secretary of the U.S. Department of the Treasury (Secretary) administers, with the assistance of the Federal Insurance Office. Section 103(e) of TRIA sets a limit on the annual liability for insured losses at $100 billion. This section requires the Secretary to notify Congress not later than 15 days after an act of terrorism as to whether aggregate insured losses are estimated to exceed the cap. TRIA also requires the Secretary to determine the pro rata share of insured losses under the program when insured losses exceed the cap, and to issue regulations for carrying this out. In order to meet these requirements, Treasury may need to obtain loss information from involved insurers.

Affected Public: Businesses or other for-profits.

Estimated Average Annual Burden per Response: 5 hours.

Estimated Total Annual Burden Hours: 1,000.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2016–01708 Filed 1–28–16; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 26, 2016.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before February 29, 2016 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8117, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

Bureau of the Fiscal Service

OMB Control Number: 1510–0056.

Type of Review: Extension of a currently approved collection.

Title: ACH Vendor/Miscellaneous Payment Enrollment Form.

Form: SF 3881.

Abstract: Form SF 3881 is used by federal agencies to gather essential payment data from vendors for processing payments through the Automated Clearinghouse (ACH) network to the vendor's financial institution.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Estimated Average Annual Burden per Response: 15 minutes.

Estimated Total Annual Burden Hours: 17,500.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2016–01709 Filed 1–28–16; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Amendment of System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of amendment of system of records.

SUMMARY: As required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled ''Ethics Consultation Web-based Database (ECWeb)-VA'' (152VA10E) as set forth in 76 FR 43386. VA is amending the system of records by revising the System Number, Categories of Individuals Covered by the System, Category of Records in the System, Purpose, Routine Uses of Records Maintained in the System, Safeguards, Retention and Disposal, and System Manager and Address. VA is republishing the system notice in its entirety.

DATES: Comments on this new system of records must be received no later than February 29, 2016. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the new system will become effective February 29, 2016.

ADDRESSES: Written comments concerning the amended system of records may be submitted through *www.regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kenneth Berkowitz, MD, Acting Executive Director, National Center for Ethics in Health Care (10P6), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; telephone (202) 501–0364.

SUPPLEMENTARY INFORMATION: The system number is changed from 152VA10E to 152VA10P6 to reflect the current organizational alignment.

The Category of Individuals Covered by the System is being amended to remove beneficiaries of other Federal agencies and replace it with other requesters or participants from outside VA for whom personal information will be collected.

The Category of Records in the System is being amended to add that the ECWeb record documents the consultation request, relevant consultation specific information, a summary of the information including the ethical analysis and moral deliberation, the explanation of the findings to relevant parties and support of the consultation process. The ECWeb record also includes related notes and attachments.

The Purpose in this system of records is being amended to include education, but will remove law enforcement investigations.

Routine Uses of Records Maintained in the System being deleted are:

2. Disclosure of health care information furnished and the period of care, as deemed necessary and proper, to accredited service organization representatives and other approved agents, attorneys, and insurance companies to aid claimants whom they represent in the preparation, presentation and prosecution of claims under laws administered by VA, state or local agencies.

3. VA may disclose on its own initiative any information in this system, except the names and home addresses of Veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature, and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of Veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

5. Relevant information may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal, in matters of guardianship, inquests and commitments; to private attorneys representing Veterans rated incompetent in conjunction with issuance of Certificates of Incompetency; and to probation and parole officers in connection with Court required duties.

15. For program review purposes and the seeking of accreditation and/or certification, health care information may be disclosed to survey teams of The Joint Commission (TJC), and similar national accrediting agencies or boards with whom VA has a contract or agreement to conduct such reviews, but only to the extent that the information is necessary and relevant to the review.

18. Patient identifying information may be disclosed to Federal agencies and VA and government-wide third party insurers responsible for payment of the cost of medical care for the identified patients, in order for VA to seek recovery of the medical care costs. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

19. Relevant health care information may be disclosed to health and welfare agencies, housing resources and utility companies, possibly to be combined with disclosures to other agencies, in situations where VA needs to act quickly in order to provide basic and/or emergency needs for the Veteran and Veteran's family where the family resides with the Veteran or serves as a caregiver.

All of the Routine Uses of Records Maintained in the System are renumbered due to the deletions to allow for sequential numbers. Routine use 29 which stated: Assist in quality improvement efforts with respect to ethics consultation practices as part of approved research or ongoing quality improvement projects is now routine use 21 which is being clarified to state that disclosure of ethics consultation records to groups (*e.g.,* American Society for Bioethics and the Humanities) performing improvement or quality assessments as part of approved research or ongoing quality improvement projects with respect to ethics consultation practices.

Safeguards number 3 is being amended to remove access to the Austin VA Data Processing Center is generally restricted to Center employees, custodial personnel, Federal Protective Service and other security personnel.

The Retention and Disposal is being amended to remove in accordance with the records is deposition authority approved by the Archivist of the United States, paper records and information stored on electronic storage media are maintained for 75 years after the last episode of patient care then destroyed/deleted. This section will now state that records that are stored within Computerized Patient Record System (CPRS) and Veterans Health Information Systems and Technology Architecture (VistA) will be maintained in accordance with Record Control Schedule (RCS) 10–1 Item # XLIII–2, Electronic Health Records, NARA job# N1–15–02–3. All other records maintained outside the Electronic Health Record will be maintained in accordance with General Records Schedule (GRS) 25 Ethics Program Records Item 1.a and 1.b (N1–GRS–01–1 item 1a & 1b).

The System Manager and Address is amending the official responsible for policies and procedures from the Chief

Ethics in Health Care to the Executive Director.

The notice of amendment and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, approved this document on January 12, 2016, for publication.

Dated: January 13, 2016.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

152VA10P6

SYSTEM NAME:

Ethics Consultation Web-based Database (ECWeb)-VA

SYSTEM LOCATION:

Automated records within the Ethics Consultation Web-based Database (ECWeb) may be maintained on a VA-owned server administered by the Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information concerning.

1. Veterans who have applied for health care services under Title 38, U.S.C., Chapter 17, and members of their immediate families.

2. Spouse, surviving spouse, and children of Veterans who have applied for health care services under Title 38, U.S.C., Chapter 17.

3. Other requesters or participants from outside VA for whom personal information will be collected.

4. Individuals examined or treated under contract or resource sharing agreements.

5. Individuals examined or treated for research or donor purposes.

6. Individuals who have applied for Title 38 benefits, but who do not meet the requirements under Title 38 to receive such benefits.

7. Individuals who were provided medical care under emergency conditions for humanitarian reasons.

8. Pensioned members of allied forces provided health care services under Title 38, U.S.C., Chapter I.

9. Current and former employees.

10. Contractors employed by the Department of Veterans Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The ECWeb record documents the consultation request, relevant consultation specific information, a summary of the information including the ethical analysis and moral deliberation, the explanation of the findings to relevant parties and support of the consultation process. The ECWeb record also includes related notes and attachments.

The records may include information related to ethics consultations performed in and for VHA medical treatment facilities. Information may include relevant information from a health record (a cumulative account of sociological, diagnostic, counseling, rehabilitation, drug and alcohol, dietetic, medical, surgical, dental, psychological, and/or psychiatric information compiled by VA professional staff and non-VA health care providers); subsidiary record information (*e.g.,* tumor registry, dental, pharmacy, nuclear medicine, clinical laboratory, radiology, and patient scheduling information); identifying information (*e.g.,* name, address, date of birth, partial social security number), military service information (*e.g.,* dates, branch and character of service, service number, health information), family or authorized surrogate information (*e.g.,* next-of-kin and person to notify in an emergency), employment information (*e.g.,* occupation, employer name and address), and information pertaining to the individual's medical, surgical, psychiatric, dental, and/or treatment (*e.g.,* information related to the chief complaint and history of present illness; information related to physical, diagnostic, therapeutic, special examinations, clinical laboratory, pathology and x-ray findings, operations, medical history, medications prescribed and dispensed, treatment plan and progress, consultations; photographs taken for identification and medical treatment, education and research purposes; facility locations where treatment is provided; observations and clinical impressions of health care providers to include identity of providers and to include, as appropriate, the present state of the patient's health, an assessment of the patient's emotional, behavioral, and social status, as well as an assessment of the patient's rehabilitation potential and nursing care needs). In addition the record may include the name and contact information for health care providers, and information regarding health care rendered by those providers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, U.S.C., 501(b), 304, 7301, and 7304(a).

PURPOSE(S):

The automated records may be used for such purposes as: Ethics consultation concerning education; ongoing treatment of the patient; documentation of treatment provided; payment; health care operations such as producing various management and patient follow-up reports; responding to patient and other inquiries; for epidemiological research and other health care related studies; statistical analysis, resource allocation and planning; providing clinical and administrative support to patient health care; audits, reviews and investigations conducted by staff of the health care facility, the VISN's, VA Central Office, and the VA Office of Inspector General (OIG); sharing of health information between and among Veterans Health Administration (VHA), Department of Defense (DoD), Indian Health Services (IHS), and other government and private industry health care organizations; quality improvement/assurance audits, reviews and investigations; personnel management and evaluation; employee ratings and performance evaluations, and employee disciplinary or other adverse action, including removal; advising health care professional licensing or monitoring bodies or similar entities of activities of VA and former VA health care personnel; and, accreditation of a VA health care facility by an entity such as TJC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 38 U.S.C. 7332, *i.e.,* medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus; information protected by 38 U.S.C. § 5705, *i.e.,* quality assurance records; or information protected by 45 CFR parts 160 and 164, *i.e.,* individually identifiable health information (IIHI), such information cannot be disclosed under a routine use unless there is also specific statutory authority permitting the disclosure. VA may disclose protected health information pursuant to the following routine uses where required or permitted by law.

1. Disclosure of health care information as deemed necessary and proper to Federal, state and local government agencies and national health organizations in order to assist in the development of programs that will be beneficial to claimants, to protect their rights under law, and assure that they are receiving all benefits to which they are entitled.

2. Disclosure of individually identifiable health care information may be made by appropriate VA personnel to the extent necessary and on a need-to-know basis, consistent with good medical and ethical practices, to family members and/or the person(s) with whom the patient has a meaningful relationship.

3. Relevant information may be disclosed to a guardian ad litem in relation to his or her representation of a claimant in any legal proceeding.

4. Relevant information may be disclosed to attorneys, insurance companies, employers, third parties liable or potentially liable under health plan contracts, and to courts, boards, or commissions, only to the extent necessary to aid VA in preparation, presentation, and prosecution of claims authorized under Federal, state, or local laws, and regulations promulgated thereunder.

5. Disclosure of health information, excluding name and home address, (unless name and address is furnished by the requester) for research purposes determined to be necessary and proper, to epidemiological and other research entities approved by the Under Secretary for Health.

6. Relevant information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

7. Relevant health care information concerning a non-judicially declared incompetent patient may be disclosed to a third party upon the written authorization of the patient's next of kin in order for the patient or, consistent with the best interest of the patient, a member of the patient's family, to receive a benefit to which the patient or family member is entitled or, to arrange for the patient's discharge from a VA medical facility. Sufficient information to make an informed determination will be made available to such next of kin. If the patient's next of kin are not reasonably accessible, the Chief of Staff, Director, or designee of the custodial VA health care facility may make disclosure of health care information for these purposes.

8. Relevant health care information may be disclosed to a non-VA nursing home facility that is considering the patient for admission, when information concerning the individual's medical care is needed for the purpose of preadmission screening under 42 CFR 483.20(f), for the purpose of identifying patients who are mentally ill or mentally retarded, so they can be evaluated for appropriate placement.

9. Relevant health care information may be disclosed to a State Veterans Home for the purpose of medical treatment and/or follow-up at the State Home when VA makes payment of a per diem rate to the State Home for the patient receiving care at such home, and the patient receives VA medical care.

10. Relevant health care information may be disclosed to (a) A Federal agency or non-VA health care provider or institution when VA refers a patient for hospital or nursing home care or medical services, or authorizes a patient to obtain non-VA medical services and the information is needed by the Federal agency or non-VA institution or provider to perform the services; or (b) a Federal agency or a non-VA hospital (Federal, state and local, public or private) or other medical installation having hospital facilities, blood banks, or similar institutions, medical schools or clinics, or other groups or individuals that have contracted or agreed to provide medical services, or share the use of medical resources under the provisions of 38 U.S.C. 513, 7409, 8111, or 8153, when treatment is rendered by VA under the terms of such contract or agreement or the issuance of an authorization, and the information is needed for purposes of medical treatment and/or follow-up, determining entitlement to a benefit or, for VA to effect recovery of the costs of the medical care.

11. Information from an ECWeb record which relates to the performance of a health care student or provider may be disclosed to a medical or nursing school, or other health care related training institution, or other facility with which there is an affiliation, sharing agreement, contract, or similar arrangement when the student or provider is enrolled at or employed by the school or training institution, or other facility, and the information is needed for personnel management, rating and/or evaluation purposes.

12. Relevant health care information may be disclosed to individuals, organizations, private or public agencies, etc., with whom VA has a contract or sharing agreement for the provision of health care or administrative services.

13. The record of an individual who is covered by a system of records may be disclosed to a Member of Congress, or a staff person acting for the Member, when the Member of staff person requests the record on behalf of and at the written request of the individual.

14. Disclosure may be made to the National Archives and Records Administration in records management inspections conducted under authority of Title 44 U.S.C.

15. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

16. VA may disclose on its own initiative any information in the system, except the names and home addresses of Veterans and their dependents, that is relevant to a suspected or reasonably imminent violation of the law whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, state, local, tribal or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. VA may also disclose on its own initiative the names and addresses of Veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statutes, regulation, or order issued pursuant thereto.

17. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

18. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subject, harm to economic or property interests, identify theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems (entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines as reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine uses permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

19. For program review purposes and the seeking of accreditation and/or certification, disclosure may be made to survey teams of TJC and similar national accreditation agencies or boards with whom VA has a contract or agreement to conduct such reviews, but only to the extent that the information is necessary and relevant to the review.

20. Disclosure of information may be made to the next-of-kin and/or the person(s) with whom the patient has a meaningful relationship to the extent necessary and on a need-to-know basis consistent with good medical and ethical practices.

21. Disclosure of ethics consultation records to groups (*e.g.,* American Society for Bioethics and the Humanities) performing improvement or quality assessments as part of approved research or ongoing quality improvement projects with respect to ethics consultation practices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media in ECWeb on a centrally located VA-owned server. In most cases, copies of back-up computer files are maintained at off-site locations. Subsidiary record information is maintained at the various respective ethics consultation services within the health care facility and by individuals, organizations, and/or agencies with whom VA has a contract or agreement to perform such services, as the VA may deem practicable.

RETRIEVABILITY:

Records are retrieved by consultation number, name of ethics consultant, requester, ethics domain or topic, facility, keywords or phrases.

SAFEGUARDS:

1. Access to VA working and storage areas is restricted to VA employees on a ''need-to-know'' basis; strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. Generally, VA file areas are locked after normal duty hours and the facilities are protected from outside access by the Federal Protective Service or other security personnel.

2. Access to computer rooms at health care facilities is generally limited by appropriate locking devices and restricted to authorized VA employees and vendor personnel. Automated Data Processing (ADP) peripheral devices are placed in secure areas (areas that are locked or have limited access) or are otherwise protected. Information in ECWeb may be accessed by authorized VA employees. Access to file information is controlled at two levels; the systems recognize authorized employees by series of individually unique passwords/codes as a part of each data message, and the employees are limited to only that information in the file, which is needed in the performance of their official duties. Information that is downloaded from ECWeb and maintained on personal computers is afforded similar storage and access protections as the data that is maintained in the original files. Access to information stored on automated storage media at other VA locations is controlled by individually unique passwords/codes.

3. Access to computer rooms is restricted to authorized operational personnel through electronic locking devices. All other persons gaining access to computer rooms are escorted. Information stored in the computer may be accessed by authorized VA employees at remote locations including VA health care facilities, Information Systems Centers, VA Central Office, and Veteran Integrated Service Networks. Access is controlled by individually unique passwords/codes, which must be changed periodically by the employee.

RETENTION AND DISPOSAL:

Records that are stored within Computerized Patient Record System (CPRS) and Veterans Health Information Systems and Technology Architecture (VistA) will be maintained in accordance with Record Control Schedule (RCS) 10–1 Item # XLIII–2, Electronic Health Records, NARA job# N1–15–02–3. All other records maintained outside the Electronic Health Record will be maintained in accordance with General Records Schedule (GRS) 25 Ethics Program Records Item 1.a and 1.b (N1–GRS–01–1 item 1a & 1b).

SYSTEMS AND MANAGER(S) AND ADDRESS:

Official responsible for policies and procedures: Executive Director, National Center for Ethics in Health Care, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Official maintaining the system: Director at the VA health care facility where the individuals are associated.

NOTIFICATION PROCEDURE:

Individuals seeking information regarding access to and contesting of ECWeb records may write, call or visit the last VA health care facility where health care was provided or by writing the National Center for Ethics in Health Care.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to and contesting of records in this system may write, call or visit the VA health care facility location where they are or were employed or made contact or they may write the National Center for Ethics in Health Care.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the patient, family members or accredited representative, and friends, authorized surrogates, health care agents, employees, contractors, medical service providers, and various automated systems providing clinical and managerial support at VA health care facilities.

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FEDERAL REGISTER PAGES AND DATE, JANUARY

CFR PARTS AFFECTED DURING JANUARY

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 December 23, 2015

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